Supreme Court, U.S.
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148 (8) (8)

Nos. 08-1553 & 08-1554 (Consolidated)

In the Supreme Court of the United States

KAWASAKI KISEN KAISHA LTD., *et al.*,
Petitioners,
v.
REGAL-BELOIT CORPORATION, *et al.*,
Respondents.

UNION PACIFIC RAILROAD COMPANY,
Petitioner,
v.
REGAL-BELOIT CORPORATION, *et al.*,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED JUNE 18, 2009
CERTIORARI GRANTED OCTOBER 20, 2009

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ITEMS PREVIOUSLY REPRODUCED

In accordance with Supreme Court Rule 26.1, the following items have been omitted in printing this joint appendix because they appear on the following pages of the Appendices to Petitions for Writ of Certiorari filed on June 18, 2009 by Petitioners in Case No. 08-1553 and Case No. 08-1554.

Regal-Beloit Corp. v. Kawasaki Kisen Kaisha Ltd.,
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RELEVANT DOCKET ENTRIES

U.S. Court of Appeals for the Ninth Circuit

Regal-Beloit Corp. v. Kawasaki Kisen Kaish
Case No. 06-56831

Date Filed	#	Docket Text
		* * *
12/22/2006	1	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): N. Setting schedule as follows: appellant's designation of RT is due 12/22/06; appellee's designation of RT is due 1/2/07; appellant shall order transcript by 1/11/07; court reporter shall file transcript in DC by 4/11/07; certificate of record shall be filed by 4/18/07; appellant's opening brief is due 5/29/07; appellees' brief is due 6/28/07; appellants' reply brief is due 7/12/07; [06-56831] (PG)
12/22/2006	2	Filed attorney for Appellant Civil Appeals Docketing Statement served on 12/12/06 (to CONFATT) [06-56831] [06-56831] (PG)
04/18/2007	3	Filed certificate of record on appeal RT filed in DC 1/12/07. [06-56831] (BG)

* * *

07/06/2007	9	Notice received from Appellee Union Pacific Rail titled: "Statement of the Union Pacific Railroad Company as to why Oral Argument should be granted in this matter." (NAN) (BJB)

* * *

08/29/2007	14	Filed original and 15 copies Appellee Union Pacific Rail brief, 60 pages, 1 Exc. vols: served on 8/27/07 minor defcy: no stmt of rel cases Notified counsel. [06-56831] record on appeal due 9/17/07; (BJB)
08/30/2007	15	Filed original and 15 copies appellee Kawasaki Kisen Kaish, K-Line America, Inc., Union Pacific Rail's 59 pages brief, 5 Exc. vols; served on 8/29/07 [06-56831] (BJB)
09/10/2007	18	Filed Union Pacific Rail notice of and motion for joinder and adoption by reference of portions of co-aples' brief [6279430-1] served on 9/7/07 (NAN) [6285272] (BJB)

* * *

09/12/2007	20	Filed Appellant Regal-Beloit Corp., Appellant Victory Fireworks, Appellant PICC Property, Appellant Royal & Sun

		Alliance response opposing appellee's motion for joinder [6285272-1] served on 9/11/07 (PROMO) [06-56831] (BJB)
09/17/2007	21	Filed Appellee Union Pacific Railroad reply to response to supporting appellee's motion for joinder [6285272-1] ; served on 9/11/07 (PROMO) [06-56831] (MF)
10/01/2007	22	Filed order (Deputy Clerk: lkk) Aplts' opposed notice of joinder in aple Union Pacific Railroad's in co-aple's answering brf and any related filing shall be referred to the panel that shall decide the merits of the case. [6285272-1] [06-56831] (BJB)
10/17/2007	24	Filed original and 15 copies Aplts' reply brief, (Informal: No) 33 pages; served on 10/15/07 [06-56831] (KKW)

* * *

06/03/2008	38	Filed aplts additional citations. Served on 05/27/2008. (panel) (CW)
06/03/2008	39	Filed Appellee Union Pacific Railroad Company opposition to aplts 5/27/07 28j ltr. Served on 06/02/2008. (CW)
06/05/2008	40	Filed Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. opposition to aplts 5/27/08 28j ltr. Served on 06/04/2008.

		(CW)
06/05/2008	41	Filed order (STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER) Appellee Union Pacific Railroad's motion for joinder and adoption by reference of portions of co-appellees' brief, filed September 10, 2007, is GRANTED. (BJB)
06/10/2008	42	ARGUED AND SUBMITTED TO STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER. (BG)
08/21/2008	43	Filed Appellee Union Pacific Railroad Company additional citations. Served on 08/20/2008. (fedex panel) (CW)
08/25/2008	44	Received aplts FRAP 34 notice, copy of amended memo and order in support of aplts argument. (CW)
08/28/2008	45	Filed Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. additional citations. Served on 08/27/2008. (faxed to panel) (RL)
08/28/2008	46	Filed Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. additional citations. Served on 08/27/2008. (faxed to panel) (RL)
09/02/2008	47	Received Appellee Union Pacific Railroad Company RESPONSE to Aplt's additional citations,

		served on 8/29/08. (faxed to panel) (LN)
09/02/2008	48	Filed Appellee Union Pacific Railroad Company opposition to aplts 8/21/08 addl citation. Served on 08/29/2008. (CW)
09/26/2008	49	Filed aplts additional citations. Served on 09/25/2008. (panel) (CW)
10/06/2008	50	Filed Appellee Union Pacific Railroad Company response to aplts 28j letter. Served on 10/03/2008. (panel) (CW)
11/10/2008	51	Filed additional citations. Served on 11/07/2008. (panel) (CW)
01/29/2009	52	Filed Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. additional citations. Served on 01/28/2009. (panel) (CW)
02/04/2009	53	FILED OPINION (STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER) REVERSED AND REMANDED. Judge: RCF Authoring. FILED AND ENTERED JUDGMENT. (RP)
02/09/2009	54	Filed (ECF) Appellants PICC Property & Casualty Company Limited Shanghai Branch, Regal-Beloit Corporation, Royal & Sun Alliance Insurance Co. Ltd. and Victory Fireworks, Inc. bill of costs (Form 10) in the amount of 1,588.00 USD. Date of service:

		02/09/2009 [6802468] (DAC)
02/17/2009	55	Filed Order for PUBLICATION (STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER) The opinion filed February 4, 2009 is withdrawn. (RP)
02/17/2009	56	FILED OPINION (STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER) REVERSED AND REMANDED. Judge: RCF Authoring. FILED AND ENTERED JUDGMENT. (RP)
03/09/2009	57	Filed (ECF) Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. Motion to stay the mandate. Date of service: 03/09/2009. [6838160] (AN)
03/09/2009	58	Filed clerk order: Electronically-filed document [6838160-3] Motion (ECF Filing), [6838160-2] motion to stay the mandate is stricken because the document is scanned. (TB)
03/09/2009	59	Filed (ECF) Appellees K-Line America, Inc. and Kawasaki Kisen Kaisha Ltd. Motion to stay the mandate. Date of service: 03/09/2009. [6838723] (AN)
03/09/2009	60	Filed (ECF) Appellee Union Pacific Railroad Company Motion to stay the mandate. Date of service: 03/09/2009. [6838767]

		(LGM)
03/18/2009	61	Filed order (STEPHEN S. TROTT, SIDNEY R. THOMAS and RAYMOND C. FISHER) Appellees Kawasaki Kisen Kaisha, Ltd. and K-Line America, Inc.'s motion for stay of mandate pending filing of a petition for a writ of certiorari, filed March 9, 2009, is DENIED without prejudice to requesting a stay from the district court. Appellee Union Pacific Railroad Co.'s motion for stay of mandate pending filing of a petition for a writ of certiorari, filed March 9, 2009, is DENIED without prejudice to requesting a stay from the district court. (BJB)
03/25/2009	62	MANDATE ISSUED.(SST, SRT and RCF) (TB)
03/30/2009	63	AMENDED MANDATE ISSUED (to reflect correct date of judgment and award cost) SST, SRT and RCF. Cost awarded to Appellants in the amount of $1588.00. (TB)
04/23/2009	64	Received letter from the Supreme Court dated 04/20/2009 regarding extension of time within which to file a petition for a writ of cert has been extended to 6/18/09. (SW)
06/23/2009	65	Received notice from the

Supreme Court: petition for certiorari filed on 06/18/2009. Supreme Court Number 08-1553. [6969697] (TB)

U.S. District Court for the Central District of California

Regal-Beloit Corp. v. Kawasaki Kisen Kaisha Ltd.
Case No. 2:06-cv-03016-DSF-FMO

Date Filed	#	Docket Text
05/17/2006	1	NOTICE OF REMOVAL from Los Angeles County Superior Court; South District, case number NC038310 with copy of summons and complaint. Case assigned to Judge Dale S. Fischer, Discovery to Magistrate Judge Fernando M Olguin. (Filing fee $350) filed by defendant Union Pacific Railroad Company.(jag) (Entered: 05/25/2006)
		* * *
05/17/2006	3	JOINDER filed by Defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc joining in Notice of Removal 1 (jag,) (Entered: 05/25/2006)
05/17/2006	4	DEMAND for Jury Trial filed by defendant Union Pacific Railroad Company. (jag) (Entered: 05/25/2006)
		* * *
05/24/2006	9	ANSWER to Notice of Removal, 1 filed by defendant Union Pacific Railroad Company.(mg,) (Entered: 05/26/2006)

05/24/2006	10	CROSSCLAIM against cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc, and ROES 1 through 5; filed by defendant / cross-complainant Union Pacific Railroad Company.(mg) (Entered: 05/26/2006)

* * *

05/26/2006	13	THIRD PARTY COMPLAINT filed by defendant Union Pacific Railroad Company against third party defendants CMT International Inc, Container Transportation Co Ltd, Kunshan Yuanjin Plastic and Electronic Co Ltd, Plano Molding Company, Shanghai Haixing Yuanchang, Thi Group Ltd, World Commerce Services Inc, World Commerce Services LLC. Jury Demand. (mg,) (Entered: 05/31/2006)
05/26/2006	14	NOTICE of Related Case(s) filed by Defendant Union Pacific Railroad Company. Related Case(s): CV 06-3016 DSF (FMOx), CV 06-3017 AHM (MANx), CV 06-3018 R (RZx), CV 06-3019 SVW (CTx) (rn) (Entered: 05/31/2006)
05/31/2006	15	ANSWER to Notice of Removal, 1 filed by defendants Kawasaki Kisen Kaisha Ltd, K-Line

		America Inc.(mg) (Entered: 06/01/2006)
05/31/2006	16	CROSSCLAIM against cross-defendant Union Pacific Railroad Company filed by cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc.(mg) (Entered: 06/01/2006)
		* * *
06/05/2006		20 Day Summons Issued re Third Party Complaint, 13 as to CMT International Inc, Container Transportation Co Ltd, Kunshan Yuanjin Plastic and Electronic Co Ltd, Plano Molding Company, Shanghai Haixing Yuanchang, Thi Group Ltd, World Commerce Services Inc, World Commerce Services LLC. (mg) (Entered: 06/06/2006)
		* * *
06/22/2006	19	ANSWER to Crossclaim 10 filed by cross-defendants' Kawasaki Kisen Kaisha Ltd, K-Line America Inc.(bp) (Entered: 06/28/2006)
		* * *
06/27/2006	27	SCHEDULE OF PRETRIAL AND TRIAL DATES filed by plaintiff Regal-Beloit Corporation. (mg,) (Entered: 07/07/2006)

* * *

07/05/2006	24	ORDER REGARDING JURY TRIAL by Judge Dale S. Fischer: I Order regarding Deadlines: A) Adding Parties or Amending Pleadings 12/3/2006. B) Discovery cut-off 10/3/2007; C) Expert Witness Exchange Deadline: Initial 11/3/07, Rebuttal 12/3/07, Cut-off 2/3/08; D) Motion hearing cut-off 4/3/08; Settlement Conference cut-off 4/17/08; Final Pretrial Conference 5/29/08 at 3:00; Trial date 6/12/08 at 8:00; II Order regarding Trial Preparation, III Order Governing Conduct of Attorneys and Parties (See document for further details) (ir) (Entered: 07/05/2006)
07/05/2006	25	ANSWER to Crossclaim of Kawasaki Kisen Kaisha Ltd and K-Line America Inc 16 filed by cross-defendant Union Pacific Railroad Company.(mg) (Entered: 07/06/2006)

* * *

08/08/2006	31	STIPULATION AND ORDER by Judge Dale S. Fischer that Case Nos. CV 06-3016, CV 06-3017, CV 06-3018 and CV 06-3019 are hereby consolidated before this Court for all purposes, that the Order re Jury Trial filed

		7/5/06 in Case CV 06-3016 shall apply and govern all consolidated cases, and further that the Scheduling Conference set for 8/14/06 at 11:00 am, in Case Nos. CV 06-3017, CV 06-3018 and CV 06-3019 shall be and is hereby ordered off-calendar. (mg) (Entered: 08/09/2006)

* * *

08/18/2006	40	NOTICE OF MOTION AND MOTION to Transfer Case to Southern District of New York pursuant to 28 USC section 1404(a) filed by defendant Union Pacific Railroad Company. Motion set for hearing on 9/18/2006 at 01:30 PM before Judge Dale S. Fischer. Lodged proposed order. (mg) (Entered: 08/29/2006)
08/18/2006	41	DECLARATION of Terry Sheldon in support of Union Pacific Railroad Company's MOTION to Transfer Case to Southern District of New York 40 filed by defendant Union Pacific Railroad Company. (mg) (Entered: 08/29/2006)
08/18/2006	42	DECLARATION of Barry N Gutterman and Exhibits thereto in support of MOTION to Transfer Case to Southern District of New York 40 filed by

		defendant Union Pacific Railroad Company. (mg) (Entered: 08/29/2006)
08/18/2006	43	DECLARATION of Leslie G McMurray and Exhibits thereto in support of MOTION to Transfer Case to Southern District of New York 40 filed by defendant Union Pacific Railroad Company. (mg) (Entered: 08/29/2006)
08/24/2006	46	NOTICE OF MOTION AND MOTION to Dismiss the action pursuant to the Tokyo District Court forum selection clause in the bill of lading; filed by defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. Motion set for hearing on 9/18/2006 at 01:30 PM before Judge Dale S. Fischer. Lodged proposed order. (mg) (Entered: 09/01/2006)
08/24/2006	47	MEMORANDUM OF POINTS AND AUTHORITIES in Support of defendants MOTION to Dismiss Case 46 filed by defendants/cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/24/2006	48	DECLARATION of Sherry Johnson in support of defendants MOTION to Dismiss Case 46 filed

		by defendants / cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/24/2006	49	EXHIBITS TO THE DECLARATION OF SHERRY JOHNSON IN SUPPORT OF MOTION to Dismiss Case 46 filed by defendants/cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/24/2006	50	DECLARATION of Jiang Jia Ying in support of defendants MOTION to Dismiss Case 46 filed by defendants / cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/24/2006	51	DECLARATION of Thomas Kwok in support of MOTION to Dismiss Case 46 filed by defendant Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/25/2006	52	DECLARATION of Hua Gui Xing in support of MOTION to Dismiss Case 46 filed by defendants / cross-defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/01/2006)
08/25/2006	54	NOTICE OF JOINDER AND JOINDER in the K Line

		MOTION to Dismiss this Case based on the forum selection clause in the applicable K Line bills of lading 46 filed by defendant Union Pacific Railroad Company. Motion set for hearing on 9/18/2006 at 01:30 PM before Judge Dale S. Fischer. Lodged proposed order. (mg) (Entered: 09/05/2006)
08/25/2006	55	DECLARATION of Leslie G McMuray in support of Union Pacific Railroad Company's JOINDER in the K Line MOTION to Dismiss this Case based on the forum selection clause in the applicable K Line bills of lading 46 54 filed by defendant Union Pacific Railroad Company. (mg,) Modified on 9/5/2006 (mg) (Entered: 09/05/2006)
08/25/2006	56	DECLARATION of Terry D Sheldon in support of Union Pacific Railroad Company's Joinder in MOTION to Dismiss Case 46 54 filed by defendant Union Pacific Railroad Company. (mg) (Entered: 09/05/2006)
08/25/2006	57	FOREIGN AUTHORITIES in support of NOTICE OF JOINDER in MOTION to Dismiss Case 46 54 filed by defendant Union Pacific Railroad

		Company. (mg) (Entered: 09/05/2006)
		* * *
09/01/2006	58	OPPOSITION to MOTION to Transfer Case to Southern District of New York 40 filed by defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (mg) (Entered: 09/11/2006)
09/05/2006	59	OPPOSITION to Union Pacific Railroads Company's MOTION to Transfer Case to Southern District of New York 40 filed by plaintiff Regal-Beloit Corporation. (mg) (Entered: 09/12/2006)
09/05/2006	60	DECLARATION of Dennis A Cammarano in Opposition to defendants MOTION to Dismiss/Transfer 40 46 ; Exhibits; filed by plaintiff Regal-Beloit Corporation. (mg) Modified on 9/12/2006 (mg). (Entered: 09/12/2006)
09/05/2006	61	OPPOSITION to MOTION to Dismiss Case 46 filed by plaintiff Regal-Beloit Corporation. (mg) (Entered: 09/12/2006)
09/12/2006	63	NOTICE OF MOTION AND MOTION to Dismiss the third-party claims of Union Pacific Railroad filed by third party defendant CMT International Inc.

		Motion set for hearing on 10/16/2006 at 01:30 PM before Judge Dale S. Fischer. (yl) (Entered: 09/19/2006)
09/12/2006	64	MEMORANDUM OF POINTS AND AUTHORITIES In in Support of MOTION to Dismiss the third-party claims of Union Pacific Railroad 63 CMT International Inc. (yl) (Entered: 09/19/2006)
09/12/2006	65	REPLY TO THE OPPOSITION Of "K" Line and Kaim to UPRR's MOTION to Transfer Case to Southern District of New York 40 filed by Defendant Union Pacific Railroad Company. (yl) (Entered: 09/19/2006)
09/12/2006	66	REPLY TO THE OPPOSITION OF Plaintiff's MOTION to Transfer Case to Southern District of New York 40 filed by Defendant Union Pacific Railroad Company. (yl) (Entered: 09/19/2006)
09/12/2006	67	REPLY TO THE OPPOSITION OF UPRR's Joinder in the "K" Line Motion to Dismiss 46 46 54 filed by Defendant Union Pacific Railroad Company. (yl) (Entered: 09/19/2006)
09/12/2006	68	DECLARATION of HIROSHI KIMURA IN SUPPORT OF MOTION to Dismiss Case 46 filed

		by Defendants and Cross-Defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (yl) (Entered: 09/19/2006)
09/12/2006	69	DECLARATION of ALAN NAKAZAWA IN SUPPORT OF MOTION to Dismiss the third-party claims of Union Pacific Railroad 63 filed by Defendants and Cross-Defendants Kawasaki Kisen Kaisha Ltd and K-Line America Inc. (yl) (Entered: 09/19/2006)
09/12/2006	70	REPLY MEMORANDUM IN SUPPORT Of the MOTION to Dismiss Case 46 filed by Defendants Kawasaki Kisen Kaisha Ltd and K-Line America Inc. (yl) (Entered: 09/19/2006)

* * *

09/27/2006	75	MINUTES (IN CHAMBERS ORDER) held before Judge Dale S. Fischer: The Court declines to rule on defendants MOTION to Dismiss Case 46 , 54 until such time as they provide legible copies of the Bills of Lading. If legible copies are not provided by 10/10/06, the motion will be denied. The motion is taken off-calendar and under submission. Court Reporter: Not Present. (mg) (Entered: 09/27/2006)

09/29/2006	76	MINUTES (IN CHAMBERS ORDER) held before Judge Dale S. Fischer: Denying Defendant Union Pacific Railroad Company's MOTION to Transfer Venue 40 . Court Reporter: Not Present. (mg) (Entered: 09/29/2006)
10/02/2006	78	OPPOSITION to MOTION to Dismiss the third-party claims of Union Pacific Railroad 63 filed by Defendant Union Pacific Railroad Company. (mg) (Entered: 10/06/2006)
10/02/2006	79	DECLARATION of Leslie G McMurray and EXHIBITS thereto in Opposition to CMTS MOTION to Dismiss 63 filed by Defendant Union Pacific Railroad Company. (mg) (Entered: 10/06/2006)
10/02/2006	80	DECLARATION of Terry D Sheldon and EXHIBITS thereto in Opposition to MOTION to Dismiss 63 filed by Defendant Union Pacific Railroad Company. (mg) (Entered: 10/06/2006)
10/02/2006	81	OBJECTION to the Declaration of Monica Lien filed by Defendant Union Pacific Railroad Company. (mg) (Entered: 10/06/2006)
		* * *
10/10/2006	86	MEMORANDUM IN OPPOSITION to Union Pacific

		Railroad Companys Objections to the Declaration of Monica Lien 81 filed by ThirdParty Defendant CMT International (mg,) (Entered: 10/20/2006)
10/10/2006	87	DECLARATION of Alan Nakazawa in support of Kawasaki Kisen Kaisha Ltds and K Line America Inc's MOTION to Dismiss 46 filed by Defendants / Cross-Defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc (mg,) (Entered: 10/20/2006)
10/10/2006	90	REPLY MEMORANDUM in Support of Third Party Defendant CMT International Inc's MOTION to Dismiss claims of Union Pacific Railroad 63 filed by Third Party Defendant Container Transportation Co Ltd. (mg,) (Entered: 10/25/2006)
10/11/2006	88	REPLY MEMORANDUM in support of MOTION to Dismiss the third-party claims of Union Pacific Railroad 63 filed by defendant CMT International Inc. (am,) (Entered: 10/24/2006)
		* * *
11/14/2006	104	ORDER by Judge Dale S. Fischer granting Defendants MOTION to Dismiss 46, 54, pursuant to the Tokyo District

		Court Forum Selection Clause in the bill of lading (mg,) Modified on 11/15/2006 (mg,). (Entered: 11/15/2006)
		* * *
12/12/2006	128	NOTICE OF APPEAL to 9th CCA filed by plaintiff Regal-Beloit Corporation, Victory Fireworks, Inc., PICC Property & Casualty Company Limited and Shanghai Haixing Yuanchang. Appeal of Order 104 Filed On: 11/14/06; Entered On: 11/15/06; Filing fee $455, paid, receipt number 91272. Forms given: Transcript Designation and Ordering form. cc: Dennis A. Cammarano; Alan Nakazawa; Leslie G. McMurray (dmap,) Modified on 12/15/2006 (dmap,). (Entered: 12/15/2006)
12/12/2006		Civil Appeals Docketing Statement received from plaintiff Regal-Beloit Corporation, Victory Fireworks, Inc., PICC Property & Casualty Company Limited, and Shanghai Haixing Yuanchang forwarded to 9th CCA. RE: Appeal to Circuit Court, 128 (dmap) (Entered: 12/15/2006)
12/15/2006		Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re: Appeal to Circuit Court, 128 (dmap,) (Entered:

		12/15/2006)
12/26/2006	130	TRANSCRIPT DESIGNATION AND ORDERING FORM For Dates: 07/03/06 and 11/27/06; Court Reporter: Pamela Seijas; Court of Appeals Case Number: Not yet designated; Re: Appeal to Circuit Court 128 (et) (Entered: 12/27/2006)
12/27/2006	129	NOTIFICATION by Circuit Court of Appellate Docket Number 06-56831, 9th CCA regarding Appeal to Circuit Court, 128 filed by Regal-Beloit Corporation, Shanghai Haixing Yuanchang. (et) (Entered: 12/27/2006)
01/12/2007	131	TRANSCRIPT filed for proceedings held on 7/3/2006. Court Reporter: Pamela A. Seijas. (tad,) (Entered: 01/17/2007)
01/12/2007	132	TRANSCRIPT filed for proceedings held on 11/27/2006. Court Reporter: Pamela A. Seijas. (tad,) (Entered: 01/17/2007)
04/16/2007	133	CERTIFICATE OF RECORD Transmitted to USCA re Appeal to Circuit Court, 128 filed by Regal-Beloit Corporation, Shanghai Haixing Yuanchang, ; Court of Appeals Case Number: 06-56831; (car,) (Entered:

04/16/2007)

* * *

08/15/2007	137	STIPULATION to Stay Further Proceedings in the District Court Pending the Appeal and Order: The Court, having reviewed the above stated stipulation of the remaining parties which have made an appearance in this case and which have not been dismissed, and good cause appearing therefore, grants the request of the parties, vacates all pending dates, and places a STAY on discovery herein pending resolution of the appeal of the Ninth Circuit of this court's dismissal of plaintiffs claims in the four above captioned consolidated cases. IT IS SO ORDERED by Judge Dale S. Fischer. (jp) (Entered: 08/16/2007)

* * *

04/04/2008	139	RECORD ON APPEAL sent to Circuit Court re: Appeal number, 06-56831; Record consists of 7 volumes, 2 transcripts re Notice of Appeal to 9th Circuit Court of Appeals, 128 (dmap) (Entered: 04/07/2008)
02/17/2009	140	ORDER from 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals, 128 filed by Shanghai Haixing Yuanchang,

		Regal-Beloit Corporation, CCA # 06-56831. The opinion filed February 4, 2009 is withdrawn. Order received in this district on 2/17/09. (lr) (Entered: 02/19/2009)
03/18/2009	141	ORDER from 9th CCA filed, CCA # 06-56831. The Order received in this district on 3/18/2009. Appellees Kawasaki Kisen Kaisher Ltd. and K-Line America Inc. and Union Pacific Railroad Co's motion for stay of mandate pending filing of a petitioner for writ of certiorari, filed 3-9-2009 are DENIED without prejudice to requesting a stay from the district court. (lra) (Entered: 03/20/2009)
03/25/2009	142	MANDATE of 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals, 128, CCA # 06-56831. The Judgment of the district court is Reversed and Remanded. Mandate received in this district on 3/25/09. (car) (Entered: 03/26/2009)
		* * *
03/31/2009	143	AMENDED MANDATE of 9th CCA filed re: Notice of Appeal to 9th Circuit Court of Appeals, 128 , CCA # 06-56831. The judgment of the district court is Reversed and Remanded. Cost awarded to Appellant in the amount of

		$1588.00. Amended Mandate received in this district on 3/31/09. (car) (Additional attachment(s) added on 4/6/2009: # 1 Bill of cost in the amount of $1,588.00) (dmap). (Entered: 04/01/2009)
04/20/2009	145	NOTICE OF MOTION AND MOTION to Stay Case pending U.S. Supreme Court ruling on UP's Petition for Writ of Certiorari and if granted, during UP's Appeal to the U.S. Supreme Court filed by Defendant Union Pacific Railroad Company. Motion set for hearing on 6/1/2009 at 01:30 PM before Judge Dale S. Fischer. (Attachments: # 1 Declaration of Leslie G. McMurray in Support of Motion to Stay)(McMurray, Leslie) (Entered: 04/20/2009)

* * *

05/01/2009	148	NOTICE OF MOTION AND MOTION to Stay Case pending Filing of Petition for Writ of Certiorari and Ruling Upon Case by U.S. Supreme Court filed by Defendant Kawasaki Kisen Kaisha Ltd, K-Line America Inc's Motion set for hearing on 6/1/2009 at 01:30 PM before Judge Dale S. Fischer. (Attachments: # 1 Declaration by Alan Nakazawa in Support of Motion by Defendants

Kawasaki Kisen Kaisha, Ltd. and "K" Line America, Inc. For a Stay of Proceedings Pending Filing of Petition for Writ of Certiorari and Ruling Upon Case by U.S. Supreme Court, # 2 Exhibit A, # 3 Exhibit B, # 4 Proposed Order Granting Motion by Defendants Kawasaki Kisen Kaisha, Ltd. and "K" Line America, Inc. For a Stay of Proceedings Pending Filing of Petition for Writ of Certiorari and Ruling Upon Case by U.S. Supreme Court, # 5 Proof of Service) (Nakazawa, Alan) (Entered: 05/01/2009)

05/04/2009	149	NOTICE OF MOTION AND Amended MOTION to Stay Case pending Petition for Certiorari and Review by Supreme Court filed by Defendant Union Pacific Railroad Company. Motion set for hearing on 6/1/2009 at 01:30 PM before Judge Dale S. Fischer. (Attachments: # 1 Declaration of Leslie G. McMurray)(McMurray, Leslie) (Entered: 05/04/2009)

* * *

05/18/2009	151	OPPOSITION re: Amended MOTION to Stay Case pending Petition for Certiorari and Review by Supreme Court 149 filed by Plaintiff Regal-Beloit

		Corporation. (Attachments: # 1 Declaration of Susan M. Hutchison in Opposition to UP's Amended Motion to Stay the Proceedings in the District Court Pending a Ruling on its Petition for Certiorari to the United States Supreme Court and Its Appeal to that Court)(Cammarano, Dennis) (Entered: 05/18/2009)
05/18/2009	152	Plaintiff's Opposition to Kawasaki Kisen Kaisha, Ltd. and K-Line America, Inc.'s Motion to Stay the Proceedings in the District Court Pending a Ruling on Its Petition for Certiorari to the United States Supreme Court and Its Appeal to that Court Opposition re: MOTION to Stay Case pending Filing of Petition for Writ of Certiorari and Ruling Upon Case by U.S. Supreme Court 148 filed by Plaintiff Regal-Beloit Corporation. (Attachments: # 1 Declaration of Susan M. Hutchison in Opposition to Kawasaki Kisen Kaisha, Ltd.; K-Line America, Inc.'s Motion to Stay the Proceedings in the District Court Pending a Ruling on Its Petition for Certiorari to the United States Supreme Court and Its Appeal to that

		Court)(Cammarano, Dennis) (Entered: 05/18/2009)
05/22/2009	153	REPLY *to Plaintiffs' Opposition to Motion by Defendants Kawasaki Kisen Kaisha, Ltd. and "K" Line America, Inc. for a Stay of Proceedings* filed by Cross Defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc, Defendants Kawasaki Kisen Kaisha Ltd, K-Line America Inc, Cross Claimants Kawasaki Kisen Kaisha Ltd, K-Line America Inc. (Attachments: # 1 Certificate of Service)(Nakazawa, Alan) (Entered: 05/22/2009)
05/22/2009	154	REPLY Support Amended MOTION to Stay Case pending Petition for Certiorari and Review by Supreme Court 149 filed by Defendant Union Pacific Railroad Company. (McMurray, Leslie) (Entered: 05/22/2009)
05/22/2009	155	MINUTES (IN CHAMBERS): by Judge Dale S. Fischer: granting 148 Motion to Stay Case; granting 149 Motion to Stay Case. This matter is back on remand from the Court of Appeals after a reversal of this Courts order dismissing the action for improper venue. Defendants now move to stay the case pending Supreme Court action on their

petitions for certiorari. The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. The hearing set for June 1, 2009, is removed from the Courts calendar. For the reasons stated in the moving and reply papers, the motions are granted on the condition that a timely petition for writ of certiorari is filed. This matter is stayed pending final disposition by the Supreme Court. The parties are to inform this Court of any order or opinion of the Supreme Court within two Court days. (shb) (Entered: 05/26/2009)

U.S. District Court for the Central District of California

Victory Fireworks Inc. v. Kawasaki Kisen Kaisha Ltd.
Case No. 2:06-cv-03017-DSF-FMO

Date Filed	#	Docket Text
05/17/2006	1	NOTICE OF REMOVAL from Los Angeles County Superior Court; South Division, case number NC038303 with copy of summons and complaint. Case assigned to Judge A. Howard Matz, Discovery to Magistrate Judge Margaret A Nagle. (Filing fee $350) filed by defendant Union Pacific Railroad Company.(jag) (Entered: 05/25/2006)
		* * *
05/26/2006	11	NOTICE of Related Case(s) filed by Defendant Union Pacific Railroad Company. Related Case(s): CV 06-3016 DSF (FMOx), CV 06-3017 AHM (MANx), CV 06-3018 R (RZx), CV 06-3019 SVW (CTx) (rn) (Entered: 05/31/2006)
		* * *
05/31/2006		PREPARED ORDER RE TRANSFER Pursuant to General Order 224 (Related Case) by Clerk; related to CV 06-3016

		DSF (FMOx). (rn) (Entered: 05/31/2006)
		* * *
05/31/2006	15	CROSSCLAIM against Cross Defendant Union Pacific Railroad Company, filed by cross claimant Kawasaki Kisen Kaisha Ltd.(bg) (Entered: 06/02/2006)
		* * *
06/02/2006	13	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 224 -Related Case- filed. Related Case No: CV 06-3016 DSF (FMOx). Case transferred from Judge A. Howard Matz and Margaret A. Nagle to Judge Dale S. Fischer and Fernando M. Olguin for all further proceedings. The case number will now reflect the initials of the transferee Judge CV 06-3017 DSF (FMOx).Signed by Judge Dale S. Fischer (rn) (Entered: 06/02/2006)
		* * *
07/26/2006	26	JOINT REPORT Rule 26(f) Discovery Plan filed; estimated length of trial Plaintiff estimates a 5 day jury trial; "K" Line estimates a 10-15 day court trial; United Pacific anticipates the jury trial will last thirty "court days". (klg) (Entered: 07/27/2006)

* * *

08/08/2006	29	STIPULATION ORDER TO CONSOLIDATE THE Within Actions by Judge Dale S. Fischer :Pursuant to the foregoing Stipulation of the parties, and good cause appearing, IT IS HEREBY ORDERED that Case Nos. CV-06-03016, CV-03-3017, and CV-06-3018 and CV-06-3019 are hereby consolidated before this Court for all purposes, that the Order re Jury Trial filed July 5, 2006 in Case CV-06-3016 shall apply and govern all consolidated cases, and further that the Scheduling Conference set for August 14, 2006, at 11:00 am in Case numbers CV-06-3017, CV-06-3018 and CV-06-3019 shall be and is hereby ordered off-calendar(yl) (Entered: 08/10/2006)
08/10/2009	30	MINUTES OF IN CHAMBERS ORDER re Stay of Consolidated Cases by Judge Dale S. Fischer: For clarity, these cases were stayed as of May 22, 2009, when lead consolidated case Regal-Beloit Corp. v. Kawasaki Kisen Kaisha Ltd., CV 06-3016 DSF (FMOx) was stayed. IT IS SO ORDERED. (shb) (Entered: 08/11/2009)

U.S. District Court for the Central District of California

PICC Property & Casualty Co., Ltd. Shanghai Branch. v. Kawasaki Kisen Kaisha Ltd.
Case No. 2:06-cv-03018-DSF-FMO

Date Filed	#	Docket Text
05/17/2006	1	NOTICE OF REMOVAL from Los Angeles County Superior Court; South Division, case number 06C01252 with copy of summons and complaint. Case assigned to Judge Manuel L. Real, Discovery to Magistrate Judge Ralph Zarefsky. (Filing fee $350) filed by defendant Union Pacific Railroad Company.(jag,) (Entered: 05/25/2006)
		* * *
05/26/2006	8	NOTICE of Related Case(s) filed by Defendant Union Pacific Railroad Company. Related Case(s): CV 06-3016 DSF (FMOx), CV 06-3017 AHM (MANx), CV 06-3018 R (RZx), CV 06-3019 SVW (CTx) (rn) (Entered: 05/31/2006))
		* * *
05/31/2006		PREPARED ORDER RE TRANSFER Pursuant to General Order 224 (Related Case) by Clerk; related to CV 06-3016

		DSF (FMOx). (rn) (Entered: 05/31/2006)
		* * *
06/02/2006	11	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 224 -Related Case- filed. Related Case No: CV 06-3016 DSF (FMOx). Case transfered from Judge Manuel L. Real and Ralph Zarefsky to Judge Dale S. Fischer and Fernando M. Olguin for all further proceedings. The case number will now reflect the initials of the transferee Judge CV 06-3018 DSF (FMOx).Signed by Judge Dale S. Fischer (rn) (Entered: 06/02/2006)
		* * *
07/26/2006	26	JOINT REPORT Rule 26(f) Discovery Plan filed; Plaintiff estimates a five day jury trial; "K" Line and KAM estimate a 10-15 day court trial; Union Pacific anticipates the jury trial will last 30 "court days". (klg) (Entered: 07/27/2006)
		* * *
08/08/2006	31	STIPULATION AND ORDER by Judge Dale S. Fischer that Case Nos. CV 06-3016, CV 06-3017, CV 06-3018 and CV 06-3019 are hereby consolidated before

		this Court for all purposes, that the Order re Jury Trial filed 7/5/06 in Case CV 06-3016 shall apply and govern all consolidated cases, and further that the Scheduling Conference set for 8/14/06 at 11:00 am, in Case Nos. CV 06-3017, CV 06-3018 and CV 06-3019 shall be and is hereby ordered off-calendar.(pbap) (Entered: 08/10/2006)
08/08/2006		***Terminated 8/14/06 hearings. (pbap) (Entered: 08/11/2006)
		* * *
08/10/2006	33	MINUTES OF IN CHAMBERS ORDER re STAY OF CONSOLIDATED CASES by Judge Dale S. Fischer: For clarity, these cases were stayed as of May 22, 2009, when lead consolidated case Regal-Beloit Corp. v. Kawasaki Kisen Kaisha Ltd., CV 06-3016 DSF (FMOx) was stayed. IT IS SO ORDERED. (shb) (Entered: 08/11/2009)

U.S. District Court for the Central District of California

Royal & Sun Alliance Ins. Co., Ltd.. v. Kawasaki Kisen Kaisha, Ltd.
Case No. 2:06-cv-03019-DSF-FMO

Date Filed	#	Docket Text
05/17/2006	1	NOTICE OF REMOVAL from Los Angeles County Superior Court; South Division, case number 06C01253 with copy of summons and complaint. Case assigned to Judge Stephen V. Wilson, Discovery to Magistrate Judge Carolyn Turchin. (Filing fee $350) filed by defendant Union Pacific Railroad Company.(jag) (Entered: 05/25/2006)
		* * *
05/24/2006	6	ANSWER to complaint within Notice of Removal, 1 filed by defendant Union Pacific Railroad Company.(lc) (Entered: 05/25/2006)
05/24/2006	7	CROSSCLAIM against cross defendants ROES 1-5, Kawasaki Kisen Kaisha Ltd, filed by defendant Union Pacific Railroad Company.(lc) (Entered: 05/25/2006)
		* * *
05/26/2009	9	NOTICE of Related Case(s) filed

		by Defendant Union Pacific Railroad Company. Related Case(s): CV 06-3016 DSF (FMOx), CV 06-3017 AHM (MANx), CV 06-3018 R (RZx), CV 06-3019 SVW (CTx) (rn) (Entered: 05/31/2006)
		* * *
05/31/2006		PREPARED ORDER RE TRANSFER Pursuant to General Order 224 (Related Case) by Clerk; related to CV 06-3016 DSF (FMOx). (rn) (Entered: 05/31/2006)
		* * *
06/02/2006	16	ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 224 -Related Case- filed. Related Case No: CV 06-3016 DSF (FMOx). Case transferred from Judge Carolyn Turchin and Stephen V. Wilson to Judge Dale S. Fischer and Fernando M. Olguin for all further proceedings. The case number will now reflect the initials of the transferee Judge CV 06-3019 DSF (FMOx).Signed by Judge Dale S. Fischer (rn) (Entered: 06/02/2006)
		* * *
07/25/2006	26	JOINT RULE 26(f) REPORT filed; estimated length of trial 5-

		30 days. (shb) (Entered: 07/26/2006)
		* * *
08/08/2009	32	STIPULATION AND ORDER by Judge Dale S. Fischer that Case Nos. CV 06-3016, CV 06-3017, CV 06-3018 and CV 06-3019 are hereby consolidated before this Court for all purposes, that the Order re Jury Trial filed 7/5/06 in Case CV 06-3016 shall apply and govern all consolidated cases, and further that the Scheduling Conference set for 8/14/06 at 11:00 am, in Case Nos. CV 06-3017, CV 06-3018 and CV 06-3019 shall be and is hereby ordered off-calendar. (lc) (Entered: 08/09/2006)
08/10/2009	33	MINUTES OF IN CHAMBERS ORDER RE STAY OF CONSOLIDATED CASES by Judge Dale S. Fischer: For clarity, these cases were stayed as of May 22, 2009, when lead consolidated case Regal-Beloit Corp. v. Kawasaki Kisen Kaisha Ltd., CV 06-3016 DSF (FMOx) was stayed. IT IS SO ORDERED. (shb) (Entered: 08/11/2009)

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Attorneys for Plaintiff,
VICTORY FIREWORKS, INC.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SOUTH DISTRICT

VICTORY FIREWORKS, INC. Plaintiff, vs. KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20, inclusive, Defendants.	) Case No. NC038303)) **COMPLAINT FOR**) **NON-DELIVERY**) **AND DAMAGE TO**) **CARGO;**) **NEGLIGENCE/**) **WILFUL**) **MISCONDUCT;**) **BREACH OF**) **CONTRACT;**) **BREACH OF**) **BAILMENT;**) **BREACH OF**) **WARRANTY**)

Plaintiff alleges:

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Non-Delivery and Damage to Cargo)

1. Plaintiff, VICTORY FIREWORKS, INC. (hereinafter "VICTORY" or "Plaintiff") is a corporation authorized to do business in the State of California with an office and place of business at 579 Vincent Lane, Ellsworth, Wisconsin 54011. Plaintiff brings this action on its own behalf and on behalf of all others having any interest in the Cargo referred to below.

2. At all times material herein, Defendants, KAWASAKI KISEN KAISHA, LTD., and K-LINE AMERICA, INC., (hereinafter collectively "K-LINE" or with Does, "Defendants") were corporations doing business in this judicial district as common carriers and freight forwarders with an office and place of business at 8730 Stony Point Parkway, Richmond, Virginia 23235.

3. At all times material herein, Defendant, UNION PACIFIC RAILROAD COMPANY, (hereinafter "UP" or with Does, "Defendants") was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 5480 Ferguson Drive, Suite 100, Los Angeles, California 90022.

4. At all times material herein, Defendant, BURLINGTON NORTHERN AND SANTA FE RAILWAY, (hereinafter "BNSF" or with Does "Defendants"), was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 3770 E. Washington Blvd., Los Angeles, California 90023.

5. Plaintiff has no knowledge of the true names and capacities of Defendants sued herein as Does 1 through 20 inclusive, except that Plaintiff is informed

and believes, and on that basis alleges, the damage to the cargo was proximately caused by Defendants' wrongful acts. Plaintiff therefore sues these Defendants by such fictitious names and Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants were at all times herein mentioned the agent, servant, employee or contractor of the other Defendants.

7. On or about March 30, 2005, non-UP and BNSF Defendants accepted a shipment consisting of assorted fireworks ("Cargo") to be to be carried from Beihai, China to Minneapolis, Minnesota via the Port of Long Beach, in the same good order and condition as when received in Container No. KKFU1595257 under the face of K-LINE bill of lading number KKLU826146965 dated March 30, 2005.

8. On or about April 19, 2005, non-K-LINE Defendants accepted the shipment of Cargo for carriage from Long Beach to Minneapolis, Minnesota in the same good condition as when received from the contracting carriers.

9. Defendants, and each of them, failed and neglected to carry, handle, monitor and deliver the Cargo and maintain its good order and condition as when received. To the contrary, the Cargo was damaged/destroyed during a train derailment in Oklahoma on or about April 21, 2005.

10. By reason of the foregoing, Plaintiff has been damaged in the sum of $40,893.70, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Negligence/Willful Misconduct)

11. Plaintiff refers to paragraphs 1 through 10, inclusive, of this complaint and incorporates them herein as though fully set forth.

12. The loss to the Cargo was directly and proximately caused by the negligence, carelessness, gross negligence and willful misconduct of Defendants, and each of them.

13. By reason of the foregoing, Plaintiff has been damaged in the sum of $40,893.70, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Contract)

14. Plaintiff refers to paragraphs 1 through 13 inclusive, of this complaint and incorporates them herein as though fully set forth.

15. On or about March 30, 2005, Defendants, and each of them, agreed to safely handle, store, count, transport and deliver the Cargo in the same good order and condition as when received.

16. Defendants, and each of them, materially and substantially breached and deviated from their agreements by failing to deliver the Cargo in the same good order and condition as when received.

17. Plaintiff performed all conditions and covenants, if any, required to be performed by them in accordance with the terms and conditions of the agreements, and otherwise is excused from any such conditions and covenants.

18. By reason of the foregoing, Plaintiff has been damaged in the sum of $40,893.70, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Bailment)

19. Plaintiff refers to paragraphs 1 through 18, inclusive, of this complaint and incorporates them herein as though fully set forth.

20. The damage of the Cargo was directly and proximately caused by the acts and omissions of Defendants, and each of them, in violation of their statutory and common law duties and obligations as bailees to safely care for the Cargo.

21. By reason of the foregoing, Plaintiff has been damaged in the sum of $40,893.70, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Warranty)

22. Plaintiff refers to paragraphs 1 through 21, inclusive, of the Complaint and incorporates them herein as though fully set forth.

23. In loading, monitoring and unloading the Cargo, Defendants warranted that they would perform the services in a workmanlike manner using the proper equipment and personnel.

24. Defendants improperly stowed, loaded, monitored and offloaded the Cargo and thus, breached their warranty.

25. By reason of the foregoing, Plaintiff has been damaged in the sum of $40,893.70, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For general damages in the sum of $40,893.70 plus expenses;

2. For pre-judgment interest at the rate of 10% per annum from April 21, 2005;

3. For post-judgment interest at the rate of 10% per annum;

4. For costs of suit herein; and

5. For such other and further relief as this court deems just and proper.

Dated: April 10, 2006

LAW OFFICES OF
DENNIS A.
CAMMARANO

By: s/Dennis A. Cammarano
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LIMITED SHANGHAI BRANCH

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – LONG BEACH JUDICAL DISTRICT
[LIMITED CIVIL CASE]

PICC PROPERTY & CASUALTY COMPANY LIMITED SHANGHAI BRANCH, Plaintiff, vs. KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20, inclusive, Defendants.	) Case No. 06C01252)) **COMPLAINT FOR**) **NON-DELIVERY**) **AND DAMAGE TO**) **CARGO;**) **NEGLIGENCE/**) **WILFUL**) **MISCONDUCT;**) **BREACH OF**) **CONTRACT;**) **BREACH OF**) **BAILMENT;**) **BREACH OF**) **WARRANTY**)) **[OVER $10,000.00]**)

Plaintiff alleges:

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Non-Delivery and Damage to Cargo)

1. Plaintiff, PICC PROPERTY & CASUALTY COMPANY LIMITED SHANGHAI BRANCH (hereinafter "PICC" or "Plaintiff") is a foreign insurance corporation with an office and place of business at 2 Floor, 700 Zhongshan Road (S), Shanghai 2000010, China. Plaintiff brings this action on its own behalf and on behalf of all others having any interest in the Cargo referred to below in that Plaintiff insured the cargo against the risks of loss alleged below.

2. At all times material herein, Defendants, KAWASAKI KISEN KAISHA, LTD., and K-LINE AMERICA, INC., (hereinafter collectively "K-LINE" or with Does, "Defendants") were corporations doing business in this judicial district as common carriers and freight forwarders with an office and place of business at 8730 Stony Point Parkway, Richmond, Virginia 23235.

3. At all times material herein, Defendant, UNION PACIFIC RAILROAD COMPANY, (hereinafter "UP" or with Does, "Defendants") was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 5480 Ferguson Drive, Suite 100, Los Angeles, California 90022.

4. At all times material herein, Defendant, BURLINGTON NORTHERN AND SANTA FE RAILWAY, (hereinafter "BNSF" or with Does "Defendants"), was a corporation doing business in this judicial district as a common carrier of goods for hire

by rail with an office and place of business at 3770 E. Washington Blvd., Los Angeles, California 90023.

5. Plaintiff has no knowledge of the true names and capacities of Defendants sued herein as Does 1 through 20 inclusive, except that Plaintiff is informed and believes, and on that basis alleges, the damage to the cargo was proximately caused by Defendants' wrongful acts. Plaintiff therefore sues these Defendants by such fictitious names and Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants were at all times herein mentioned the agent, servant, employee or contractor of the other Defendants.

7. On or about April 3, 2005, non-UP and BNSF Defendants accepted a shipment consisting of electric motors parts ("Cargo") to be to be carried from Shanghai, China to Milwaukee, Wisconsin via the Port of Long Beach, in the same good order and condition as when received in Container Nos. KKTU742574, KKFU906752, TRLU300291 and KLTU760096 under the face of K-LINE bill of lading number KKLUSH7807068 dated April 3, 2005.

8. On or about April 19, 2005, non-K-LINE Defendants accepted the shipment of Cargo for carriage from Long Beach to Milwaukee, Wisconsin in the same good condition as when received from the contracting carriers.

9. Defendants, and each of them, failed and neglected to carry, handle, monitor and deliver the Cargo and maintain its good order and condition as when received. To the contrary, the Cargo was

damaged/destroyed during a train derailment in Oklahoma on or about April 21, 2005.

10. By reason of the foregoing, Plaintiff has been damaged in the sum of $12,524.07, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Negligence/Willful Misconduct)

11. Plaintiff refers to paragraphs 1 through 10, inclusive, of this complaint and incorporates them herein as though fully set forth.

12. The loss to the Cargo was directly and proximately caused by the negligence, carelessness, gross negligence and willful misconduct of Defendants, and each of them.

13. By reason of the foregoing, Plaintiff has been damaged in the sum of $12,524.07, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Contract)

14. Plaintiff refers to paragraphs 1 through 13 inclusive, of this complaint and incorporates them herein as though fully set forth.

15. On or about April 3, 2005, Defendants, and each of them, agreed to safely handle, store, count, transport and deliver the Cargo in the same good order and condition as when received.

16. Defendants, and each of them, materially and substantially breached and deviated from their

agreements by failing to deliver the Cargo in the same good order and condition as when received.

17. Plaintiff performed all conditions and covenants, if any, required to be performed by them in accordance with the terms and conditions of the agreements, and otherwise is excused from any such conditions and covenants.

18. By reason of the foregoing, Plaintiff has been damaged in the sum of $12,524.07, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Bailment)

19. Plaintiff refers to paragraphs 1 through 18, inclusive, of this complaint and incorporates them herein as though fully set forth.

20. The damage of the Cargo was directly and proximately caused by the acts and omissions of Defendants, and each of them, in violation of their statutory and common law duties and obligations as bailees to safely care for the Cargo.

21. By reason of the foregoing, Plaintiff has been damaged in the sum of $12,524.07, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Warranty)

22. Plaintiff refers to paragraphs 1 through 21, inclusive, of the Complaint and incorporates them herein as though fully set forth.

23. In loading, monitoring and unloading the Cargo, Defendants warranted that they would perform the services in a workmanlike manner using the proper equipment and personnel.

24. Defendants improperly stowed, loaded, monitored and offloaded the Cargo and thus, breached their warranty.

25. By reason of the foregoing, Plaintiff has been damaged in the sum of $12,524.07, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For general damages in the sum of $12,524.07 plus expenses;

2. For pre-judgment interest at the rate of 10% per annum from April 21, 2005;

3. For post-judgment interest at the rate of 10% per annum;

4. For costs of suit herein; and

5. For such other and further relief as this court deems just and proper.

Dated: April 13, 2006

LAW OFFICES OF
DENNIS A.
CAMMARANO

By: s/Dennis A. Cammarano
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Attorneys for Plaintiff,
PICC PROPERTY &
CASUALTY COMPANY
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Attorneys for Plaintiff,
REGAL-BELOIT CORPORATION

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – SOUTH DISTRICT

REGAL-BELOIT CORPORATION, Plaintiff, vs. KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20, inclusive, Defendants.	) Case No. NC038310)) **COMPLAINT FOR**) **NON-DELIVERY**) **AND DAMAGE TO**) **CARGO;**) **NEGLIGENCE/**) **WILFUL**) **MISCONDUCT;**) **BREACH OF**) **CONTRACT;**) **BREACH OF**) **BAILMENT;**) **BREACH OF**) **WARRANTY**)

Plaintiff alleges:

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Non-Delivery and Damage to Cargo)

1. Plaintiff, REGAL-BELOIT CORPORATION (hereinafter "RBC" or "Plaintiff") is a foreign corporation with an office and place of business at 200 State Street, Beloit, Wisconsin 53511. Plaintiff brings this action on its own behalf and on behalf of all others having any interest in the Cargo referred to below.

2. At all times material herein, Defendants, KAWASAKI KISEN KAISHA, LTD., and K-LINE AMERICA, INC., (hereinafter collectively "K-LINE" or with Does, "Defendants") were corporations doing business in this judicial district as common carriers and freight forwarders with an office and place of business at 8730 Stony Point Parkway, Richmond, Virginia 23235.

3. At all times material herein, Defendant, UNION PACIFIC RAILROAD COMPANY, (hereinafter "UP" or with Does, "Defendants") was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 5480 Ferguson Drive, Suite 100, Los Angeles, California 90022.

4. At all times material herein, Defendant, BURLINGTON NORTHERN AND SANTA FE RAILWAY, (hereinafter "BNSF" or with Does "Defendants"), was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 3770 E. Washington Blvd., Los Angeles, California 90023.

5. Plaintiff has no knowledge of the true names and capacities of Defendants sued herein as Does 1 through 20 inclusive, except that Plaintiff is informed and believes, and on that basis alleges, the damage to the cargo was proximately caused by Defendants'

wrongful acts. Plaintiff therefore sues these Defendants by such fictitious names and Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants were at all times herein mentioned the agent, servant, employee or contractor of the other Defendants.

7. On or about April 3, 2005, non-UP and BNSF Defendants accepted a shipment consisting of electric motors ("Cargo") to be to be carried from Shanghai, China to Indianapolis, Indiana via the Port of Long Beach, in the same good order and condition as when received in Container Nos. KKTU7192886 and KLTU7626760 under the face of K-LINE bill of lading number KKLUSH7807066 dated April 3, 2005.

8. On or about April 19, 2005, non-K-LINE Defendants accepted the shipment of Cargo for carriage from Long Beach to Indianapolis, Indiana in the same good condition as when received from the contracting carriers.

9. Defendants, and each of them, failed and neglected to carry, handle, monitor and deliver the Cargo and maintain its good order and condition as when received. To the contrary, the Cargo was damaged/destroyed during a train derailment in Oklahoma on or about April 21, 2005.

10. By reason of the foregoing, Plaintiff has been damaged in the sum of $100,000.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Negligence/Willful Misconduct)

11. Plaintiff refers to paragraphs 1 through 10, inclusive, of this complaint and incorporates them herein as though fully set forth.

12. The loss to the Cargo was directly and proximately caused by the negligence, carelessness, gross negligence and willful misconduct of Defendants, and each of them.

13. By reason of the foregoing, Plaintiff has been damaged in the sum of $100,000.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Contract)

14. Plaintiff refers to paragraphs 1 through 13 inclusive, of this complaint and incorporates them herein as though fully set forth.

15. On or about April 3, 2005, Defendants, and each of them, agreed to safely handle, store, count, transport and deliver the Cargo in the same good order and condition as when received.

16. Defendants, and each of them, materially and substantially breached and deviated from their agreements by failing to deliver the Cargo in the same good order and condition as when received.

17. Plaintiff performed all conditions and covenants, if any, required to be performed by them in accordance with the terms and conditions of the agreements, and otherwise is excused from any such conditions and covenants.

18. By reason of the foregoing, Plaintiff has been damaged in the sum of $100,000.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Bailment)

19. Plaintiff refers to paragraphs 1 through 18, inclusive, of this complaint and incorporates them herein as though fully set forth.

20. The damage of the Cargo was directly and proximately caused by the acts and omissions of Defendants, and each of them, in violation of their statutory and common law duties and obligations as bailees to safely care for the Cargo.

21. By reason of the foregoing, Plaintiff has been damaged in the sum of $100,000.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Warranty)

22. Plaintiff refers to paragraphs 1 through 21, inclusive, of the Complaint and incorporates them herein as though fully set forth.

23. In loading, monitoring and unloading the Cargo, Defendants warranted that they would perform the services in a workmanlike manner using the proper equipment and personnel.

24. Defendants improperly stowed, loaded, monitored and offloaded the Cargo and thus, breached their warranty.

25. By reason of the foregoing, Plaintiff has been damaged in the sum of $100,000.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For general damages in the sum of 100,000.00 plus expenses;

2. For pre-judgment interest at the rate of 10% per annum from April 21, 2005;

3. For post-judgment interest at the rate of 10% per annum;

4. For costs of suit herein; and

5. For such other and further relief as this court deems just and proper.

Dated: April 13, 2006

LAW OFFICES OF
DENNIS A.
CAMMARANO

By: s/Dennis A. Cammarano
Dennis A. Cammarano
Attorneys for Plaintiff,
REGAL-BELOIT
CORPORATION
232012

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Attorneys for Plaintiff,
ROYAL & SUN ALLIANCE INSURANCE CO., LTD.

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – LONG BEACH JUDICIAL DISTRICT
[LIMITED CIVIL CASE]

ROYAL & SUN ALLIANCE INSURANCE CO., LTD.,	) Case No. 06C01253
Plaintiff,	) **COMPLAINT FOR NON-DELIVERY AND DAMAGE TO CARGO; NEGLIGENCE/ WILFUL MISCONDUCT; BREACH OF CONTRACT; BREACH OF BAILMENT; BREACH OF WARRANTY [UNDER $10,000.00]**
vs.	
KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20, inclusive,	
Defendants.	

Plaintiff alleges:

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Non-Delivery and Damage to Cargo)

1. Plaintiff, ROYAL & SUN ALLIANCE INSURANCE CO., LTD., (hereinafter "ROYAL" or "Plaintiff") is an insurance corporation authorized by law with an office and place of business c/o Vericlaim, Inc., 195 Broadway, 20th Floor, New York, New York 10007. Plaintiff brings this action on its own behalf and on behalf of all others having any interest in the Cargo referred to below in that Plaintiff insured the cargo against the risks of loss alleged below.

2. At all times material herein, Defendants, KAWASAKI KISEN KAISHA, LTD., and K-LINE AMERICA, INC., (hereinafter collectively "K-LINE" or with Does, "Defendants") were corporations doing business in this judicial district as common carriers and freight forwarders with an office and place of business at 8730 Stony Point Parkway, Richmond, Virginia 23235.

3. At all times material herein, Defendant, UNION PACIFIC RAILROAD COMPANY, (hereinafter "UP" or with Does, "Defendants") was a corporation doing business in this judicial district as a common carrier of goods for hire by rail with an office and place of business at 5480 Ferguson Drive, Suite 100, Los Angeles, California 90022.

4. At all times material herein, Defendant, BURLINGTON NORTHERN AND SANTA FE RAILWAY, (hereinafter "BNSF" or with Does "Defendants"), was a corporation doing business in this judicial district as a common carrier of goods for hire

by rail with an office and place of business at 3770 E. Washington Blvd., Los Angeles, California 90023.

5. Plaintiff has no knowledge of the true names and capacities of Defendants sued herein as Does 1 through 20 inclusive, except that Plaintiff is informed and believes, and on that basis alleges, the damage to the cargo was proximately caused by Defendants' wrongful acts. Plaintiff therefore sues these Defendants by such fictitious names and Plaintiff will amend this complaint to allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants were at all times herein mentioned the agent, servant, employee or contractor of the other Defendants.

7. On or about April 1, 2005, non-UP and BNSF Defendants accepted a shipment consisting of retainer nail castings ("Cargo") to be to be carried from Zhangjiagang, China to Chicago, Illinois via the Port of Long Beach, in the same good order and condition as when received in Container No. KKTU7102774 under the face of K-LINE bill of lading number KKLUZG64000686 dated April 1, 2005.

8. On or about April 19, 2005, non-K-LINE Defendants accepted the shipment of Cargo for carriage from Long Beach to Chicago, Illinois in the same good condition as when received from the contracting carriers.

9. Defendants, and each of them, failed and neglected to carry, handle, monitor and deliver the Cargo and maintain its good order and condition as when received. To the contrary, the Cargo was damaged/destroyed during a train derailment in Oklahoma on or about April 21, 2005.

10. By reason of the foregoing, Plaintiff has been damaged in the sum of $3,012.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Negligence/Willful Misconduct)

11. Plaintiff refers to paragraphs 1 through 10, inclusive, of this complaint and incorporates them herein as though fully set forth.

12. The loss to the Cargo was directly and proximately caused by the negligence, carelessness, gross negligence and willful misconduct of Defendants, and each of them.

13. By reason of the foregoing, Plaintiff has been damaged in the sum of $3,012.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Contract)

14. Plaintiff refers to paragraphs 1 through 13 inclusive, of this complaint and incorporates them herein as though fully set forth.

15. On or about April 1, 2005, Defendants, and each of them, agreed to safely handle, store, count, transport and deliver the Cargo in the same good order and condition as when received.

16. Defendants, and each of them, materially and substantially breached and deviated from their agreements by failing to deliver the Cargo in the same good order and condition as when received.

17. Plaintiff performed all conditions and covenants, if any, required to be performed by them in accordance with the terms and conditions of the agreements, and otherwise is excused from any such conditions and covenants.

18. By reason of the foregoing, Plaintiff has been damaged in the sum of $3,012.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Bailment)

19. Plaintiff refers to paragraphs 1 through 18, inclusive, of this complaint and incorporates them herein as though fully set forth.

20. The damage of the Cargo was directly and proximately caused by the acts and omissions of Defendants, and each of them, in violation of their statutory and common law duties and obligations as bailees to safely care for the Cargo.

21. By reason of the foregoing, Plaintiff has been damaged in the sum of $3,012.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS

(Breach of Warranty)

22. Plaintiff refers to paragraphs 1 through 21, inclusive, of the Complaint and incorporates them herein as though fully set forth.

23. In loading, monitoring and unloading the Cargo, Defendants warranted that they would

perform the services in a workmanlike manner using the proper equipment and personnel.

24. Defendants improperly stowed, loaded, monitored and offloaded the Cargo and thus, breached their warranty.

25. By reason of the foregoing, Plaintiff has been damaged in the sum of $3,012.00, plus expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as follows:

1. For general damages in the sum of $3,012.00 plus expenses;

2. For pre-judgment interest at the rate of 10% per annum from April 21, 2005;

3. For post-judgment interest at the rate of 10% per annum;

4. For costs of suit herein; and

5. For such other and further relief as this court deems just and proper.

Dated: April 14, 2006

LAW OFFICES OF
DENNIS A.
CAMMARANO

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Attorneys for Petitioner and Defendant
UNION PACIFIC RAILROAD COMPANY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGAL-BELOIT CORPORATION	)	CASE NO. CV 06 3016 DSF (FMOx)
Plaintiff,	)	**NOTICE OF REMOVAL AND**
vs.	)	**PETITION FOR REMOVAL OF**
KAWASAKI KISEN KAISHA, LTD.; "K" Line AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY and DOES 1 through 20, inclusive	)	**ACTION**
Defendants.	)	

TO THE CLERK AND THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Petitioner and Defendant UNION PACIFIC RAILROAD COMPANY, ("Petitioner" or "UPRR"), hereby removes to this Court the state court action described below and respectfully shows upon information and belief:

1. That Petitioner is a named defendant in the above-entitled action brought by plaintiff Regal-Beloit Corporation (hereafter "Regal") which action is now pending in the Superior Court of the State of California, County of Los Angeles, South District, under Case No. NC038310 (hereafter "the State Court action"). Petitioner has a right to remove the State Court action to this Court.

2. That on or about April 27, 2006, the Summons and Complaint, were served upon CT Corporation System specifying the nature of the action in the aforesaid Court. A copy of the Summons on Complaint and Complaint along with all other process, proceedings and orders served on UPRR in the State Court action are annexed hereto collectively as Exhibit "A". The service of the Summons and Complaint on UPRR on April 27, 2006 was the first time UPRR received a copy of the Complaint in the State Court action (which Complaint is hereafter referred to herein as the "*Regal Complaint*".)

3. *Regal* alleges in that Complaint that cargo (electric motors) was carried in two separate shipping containers and was damaged at some point en route in interstate commerce while in the care and custody of

UPRR, a rail carrier, and while in the care and custody of "K" Line AMERICA, INC. and KAWASAKI KISEN KAISHA, LTD., a common carrier, in the course of an interstate and international movement. Specifically, in the first cause of action (for "Non-Delivery and Damage to Cargo") in Regal's Complaint in the State Court action, plaintiff alleges that UPRR, was a common carrier (Regal Complaint, 2:3-6), that UPRR received the cargo, (Regal Complaint, 2:19-23), that the cargo was damaged in UPRR's care and custody (Regal Complaint, 2:27-28, 3:1-2), and the amounts of alleged damages due to the acts or omissions of defendants (which is alleged as $100,000.00, plus expenses, interest and costs). (*Regal Complaint*, at 3:3-5.) The first cause of action in the Regal Complaint in the State Court action contains the elements required to plead a claim against UPRR under the Carmack Amendment, 49 U.S.C. § 11706 et seq. although the Carmack Amendment is not expressly mentioned. *See Newens v. Orna Services, Inc.*, 2002 U.S. Dist. LEXIS 10685. The Regal Complaint thus contains a cause of action within the meaning of 28 U.S.C. section 1441 (a claim where the court has original jurisdiction under the laws of the United States, to wit, the Carmack Amendment, 49 U.S.C. § 11706 et seq.), within the meaning of 28 U.S.C. section 1331 (a civil action arising under the laws of the United States, to wit the Carmack Amendment) and within the meaning of 28 U.S.C. section 1337(a) (a civil action under an Act of Congress under 49 U.S.C. section 11706 or 14706, title 49 where the amount in controversy for each bill of lading exceeds $10,000).

4. Moreover, Regal has sued "K" Line America, Inc. and Kawasaki Kisen Kaisha, Ltd., as carriers, on

an international movement by sea originating in a foreign country (Shanghai, China) and terminating in the U.S. (Indianapolis, Indiana) via the Port of Long Beach. (*Complaint*, 2:19-23.) This court therefore alternatively has admiralty and maritime jurisdiction over Regal's claim against "K" Line America, Inc. and Kawasaki Kisen Kaisha, Ltd. under 28 U.S.C. section 1333 [*See Norfolk Southern Railway Company v. Kirby*, 543 U.S. 14, 125 S.Ct. 385, 160 L.Ed.2d 283 (2004)]; federal question jurisdiction under 28 U.S.C. section 1331 (COGSA, 46 U.S.C. Section 1300 et. seq. and/or Harter Act, 46 U.S.C. Section 190, et seq.); and 28 U.S.C. Section 1337, since both COGSA and the Harter Act are federal statutes regulating commerce. The action is properly removable pursuant to 28 U.S.C. section 1441(b). *B.F. McKernin & Co., Inc. v. United States Lines, Inc.*, 416 F.Supp. 1068, 1071 (S.D.N.Y. 1976); accord, *Uncle Ben's v. Hapag-Lloyd Aktiengesellschaft*, 855 F.2d 215, 217 (5th Cir. 1988); *Joe Boxer v. Fritz Transp. Int'*, 1988 A.M.C. 2576 (C.D. Cal. 1998).

5. That UPRR further desires to remove The State Court Action to the District Court in the Central District of California based on diversity jurisdiction pursuant to the provisions of title 28 United States Code, Section 1332 in that the amount in controversy exceeds $75,000 and there is complete diversity of citizenship among the parties under 28 U.S.C. section 1332 at all times since the date on which the complaint was filed in the State Court Action. That on information and belief, the citizenship of each party to this action is as set forth below:

Regal-Beloit:

Incorporated in Wisconsin

Principal place of Business in Wisconsin

UPRR:

Incorporated in Delaware

Principal Place of Business in Nebraska

BNSF: (No longer a party at the time of removal)

Incorporated in Delaware

Principal place of Business in Texas

"K" Line America, Inc.:

Incorporated in Michigan

Principal place of business in Richmond, VA

Kawasaki, Kisen, Kaisha

Foreign corporation incorporated in Japan

Principal place of business is in Japan

6. This District Court has supplemental jurisdiction over other state law claims under 28 U.S.C. section 1367 in that they are transactionally related to the federal question claim.

7. KAWASAKI KISEN KAISHA, LTD. and "K" Line AMERICA, INC. received the Summons and Complaint and related documents in this matter by certified mail on May 3, 2006 with the envelopes showing a mailing date of May 1, 2006. Technically therefore, KAWASAKI KISEN KAISHA, LTD. and "K" Line AMERICA, INC. were served with the summons and complaint in the State Court action on May 11, 2006. This service of the Summons and Complaint in case Number 0601252 on KAWASAKI KISEN KAISHA, LTD. and "K" Line AMERICA, INC. was the first time KAWASAKI KISEN KAISHA, LTD. and "K" Line AMERICA, INC. received a copy of the Complaint in the State Court action. The joinder of these two defendants is filed concurrently herewith. Attached hereto as Exhibit B

collectively are true and correct copies of the documents served on "K" Line America, Inc. and Kawasaki Kisen Kaisha, Ltd. in the State Court action.

8. Defendant Burlington Northern and Santa Fe Railway was served with the summons and complaint herein on April 18, 2006 and was dismissed from this action with prejudice on May 1, 2006. See Exhibit C hereto which, collectively, are true and correct copies of the proof of service on BNSF, the documents served on BNSF by plaintiff, and the request for dismissal of BNSF from this suit with prejudice which plaintiff sent to BNSF.

9. Petitioner desires to remove this action to the District Court of the United States for the District in which the State Court action is now pending, to wit, to the U.S. District Court for the Central District of California. The Long Beach District of the Los Angeles Superior Court falls within the District encompassed by this Court, and therefore this Court is the proper court for this matter to be removed to.

> "The general venue statutes do not apply to an action that has been removed from state court. Removal *automatically satisfies* the federal venue requirements - i.e., venue is proper as long as removal is to the district in which the state action was pending. [28 USC § 1441(a); see *PT United Can Co. Ltd. v. Crown Cork & Seal Co., Inc.* (2nd Cir. 1998) 138 F.3d 65, 72.)...]"

W. Schwarzer, W. Tashima, J. Wagstaff, *Federal Civil Procedure Before Trial*, at ¶2:1048 (emphasis in original.)

10. A copy of this Notice of Removal will be served on the attorneys for plaintiff and a copy of this Notice will be filed with the Clerk of the Superior Court of the

State of California, County of Los Angeles, Central District.

11. Petitioner has a good and sufficient defense to this action.

12. No previous application for the relief sought herein has been made to this or any other Court.

WHEREFORE, Petitioner respectfully prays that the above action now pending against it in the Superior Court of the State of California, County of Los Angeles, be removed to this Court.

Dated: May 17, 2006

LAW OFFICES OF
LESLIE G.
MCMURRAY

By: s/Leslie G. McMurray
LESLIE G. MCMURRAY
Attorneys for Defendant
and Petitioner
UNION PACIFIC
RAILWAY COMPANY

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UNION PACIFIC RAILROAD COMPANY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGAL-BELOIT CORPORATION	)	CASE NO. CV 06 3016 DSF (FMOx)
Plaintiff,	)	[AND CONSOLIDATED
vs.	)	CASES CV 06 3017 DSF (FMOx); CV 06
KAWASAKI KISEN KAISHA, LTD.; "K" Line AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY and DOES 1 through 20, inclusive	)	3018 DSF (FMOx); AND CV 06 3019 DSF (FMOx)]
	)	[Assigned to Hon. Judge Dale S. Fischer]
	)	**UNION PACIFIC RAILROAD COMPANY'S NOTICE OF MOTION AND MOTION TO TRANSFER THESE CONSOLIDATED**
Defendants.	)	

UNION PACIFIC RAILROAD COMPANY, Cross-complainant, vs. KAWASAKI KISEN KAISHA, LTD.; "K" Line AMERICA, INC., AND ROES 1 through 5, inclusive, Cross-defendants.	**ACTIONS TO THE SOUTHERN DISTRICT OF NEW YORK PURSUANT TO 28 U.S.C. SECTION 1404(a)** DATE: Monday, September 18, 2006 TIME: 1:30 P.M. PLACE: Courtroom 840 (Roybal Building)
And related third party complaint.	

TO THE HONORABLE JUDGE DALE S. FISCHER TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that Union Pacific Railroad Company (hereinafter, "UPRR"), intends to move and hereby does move to transfer these consolidated cases to the United States District Court, Southern District of New York located at 500 Pearl Street, New York, New York, 10007-1312 pursuant to 28 U.S.C. section 1404(a) based on the convenience of the parties and witnesses and in the interests of justice.

This motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities submitted herewith, upon the declarations of Leslie G.

McMurray, Barry N. Gutterman, Terry D. Sheldon and exhibits thereto, upon the Proposed Order submitted herewith, upon the complete file in this matter, and upon such other further evidence or argument which UPRR may present prior to or at the time of the hearing on this motion.

This motion is made following a June 14, 2006 meeting of counsel in an attempt to resolve the issues raised by this motion.[1] Plaintiff is expected to oppose the motion to transfer. Defendants "K" Line America, Inc. and Kawasaki Kisen Kaisha, Ltd. are not expected to oppose the motion to transfer. Respectfully submitted.

Dated: August 17, 2006 LAW OFFICES OF LESLIE G. MCMURRAY

BY: s/Leslie G. McMurray
LESLIE G. MCMURRAY
Attorneys for UNION PACIFIC RAILWAY COMPANY

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[1] McMurray declaration dated 6/25/06 (hereafter "LGM") at ¶11 (and see exhibit I.)

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTORY STATEMENT

UPRR hereby moves to transfer the above referenced case to the United States District Court, Southern District of New York pursuant to 28 U.S.C. section 1404(a) based on the convenience of the parties and witnesses and in the interests of justice. The following discussion of the underlying facts and procedure will inform the courts' application of the law warranting transfer.

II. THE FACTS RELATING TO PLAINTIFF'S COMPLAINT

Plaintiffs Regal-Beloit, Victory Fireworks, Inc., Royal & Sun Alliance Insurance Co., Ltd. and PICC Property & Casualty Company Limited Shanghai Branch sued UPRR, "K" Line America, Inc. ("KAM") and Kawasaki Kisen Kaisha, Ltd. ("K" Line") in four separate complaints allege that in April of 2005, UPRR accepted containers containing cargo for the inland rail portion of an international shipment from Shanghai, China to various delivery points within the United States. Plaintiffs allege in their complaints that UPRR is responsible for their cargo losses following an April 21, 2005 derailment near Tyrone, Oklahoma of the UPRR train on which the containers were being carried ("the Tyrone derailment.") These four cases are now consolidated under the lowest case number.

III. THE FACTS RELATING TO UPRR'S CROSS-COMPLAINT

UPRR filed a cross-claim against KAM and "K" Line based upon the following facts. In April of 2005, "K" Line and KAM caused a containerized shipment to be transported from Shanghai, China to Chicago,

Illinois via Long Beach, California which included steel injection molds (hereinafter, "steel molds") destined for the Plano Molding Company in Illinois The steel molds were stowed in container TRLU 2733410, which was placed on a UPRR train for shipment from Long Beach to Chicago. During transit near Tyrone, Oklahoma, the steel molds broke through the floor of container TRLU 2733410 causing the train to derail and resulting in significant damage to UPRR property.

At the time of the derailment, UPRR and KAM were parties to an August 1, 2003 contract (UPRR DER-UP-C-21300-A) entered into for the benefit of "K" Line, the disclosed principal of KAM. The contract specified that the rights and obligations thereunder are governed by the law of the State of New York.

> **"Section 26. CHOICE OF LAW. The law of the State of New York shall govern the performance and enforcement of the rights and obligations of the parties to this agreement."**

[T.D. Sheldon Decl. dated 7/31/06 at ¶ 2; UPRR DER-UP-C-21300-A, page 25, section 26 (emphasis added).][2]

UPRR DER-UP-C-21300-A further provided that liability for freight loss and damage to lading while under the control of UPRR shall be governed by UPRR's Master Intermodal Transportation Agreement ("MITA.") The MITA's definition of "Shipper" includes agents, employees, and independent contractors acting on behalf of the shipper, receiver, or

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[2] UPRR DER-UP-C-21300-A is by its terms confidential and is not therefore attached to the papers filed with the Court but it will be brought to the hearing on this motion should the Court wish to review its terms in camera.

beneficial owner. Under MITA, the Shipper bears sole responsibility for loading, blocking, and bracing the shipment, for ensuring that no more than 25,000 pounds are distributed in a container over ten linear feet. If the load shifts in a situation where the loading, blocking, or bracing of the shipment was insufficient, under MITA, the Shipper is responsible for all damages and expenses resulting therefrom. The Shipper likewise bears the sole responsibility for any spill, response, mitigation, cleanup or disposal due to Shipper's non-compliance with any local, state, or federal law or regulation as well as the terms and conditions in MITA. And the Shipper bears sole responsibility for any loss or damage due to any defects in privately owned or leased equipment under the MITA. [T.D. Sheldon Decl. dated 7/15/06 at ¶ 3; Exhibit.]

UPRR alleges herein that "K" Line and KAM breached express warranties to UPRR by failing to ensure that the steel molds were properly loaded; by failing to ensure the steel molds were properly blocked and braced; by failing to comply with relevant rules, regulations, and industry standards regarding the bracing and blocking of the molds; by failing to comply with relevant rules, regulations, and industry standards regarding cargo weight displacement; and by failing to use proper equipment in the shipment of goods pursuant to MITA, namely, in using a container which was substandard and defective. As a result, UPRR suffered over four million five hundred thousand dollars worth ($4,500,000.00) of losses including but not limited to damage to over thirty rail cars, track, lading, signal equipment, and other UPRR property, as well as other economic loss due to the

clean up costs associated with the derailment and lost productivity. New York law will apply to the rights and obligations of the cross-defendants and some if not all of the third party defendants in these consolidated actions.

IV. UPRR'S THIRD PARTY ACTION

UPRR also filed a third party complaint naming seven third party defendants all of whom are believed to have either participated in the loading or shipment of container TRLU 2733410-A as agents and independent contractors on behalf of the shipper, receiver or beneficial owner and who are, therefore, subject to New York law:

1) WORLD COMMERCE SERVICES, LLC. ("World") is believed to have acted as an intermediary for parties seeking to ship the steel molds in TRLU 2733410 overseas and arranged for the shipment under agency agreements. World issued its own non-vessel operating common carrier Bill of Lading related to the shipment of TRLU 2733410, which reflected Kunshan as the shipper and Plano as the ultimate consignee or recipient. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4a.]

2) WORLD COMMERCE SERVICES, INC. ("World, Inc."): World, Inc. is the "consignee" and "notify party" on the "K" LINE Waybill. World Inc. is believed to have assumed responsibility for the carriage of the steel molds under its Bill of Lading. World Inc. is believed to have acted as an agent of Kunshan in tendering the steel molds to KAM and "K" LINE for transportation. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4c.][3]

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[3] World Inc. may have recently merged into World Commerce Services, LLC. [McMurray Decl. dated 7/31/06 at ¶ 5.]

3) KUNSHAN YUANJIN PLASTIC & ELECTRONIC CO., LTD. ("KUNSHAN") is believed to have tendered the cargo of steel molds to "K" LINE for carriage overseas and was responsible, along with its agents and contractors, for the blocking, bracing storage and securement of the molds inside the container which carried the molds. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4c.]

4) THI GROUP, LTD. is also believed to have had a role in shipping the goods in container 2733410 and is believed to have acted as an agent for Plano Molding Company. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4d.]

5) PLANO MOLDING COMPANY is listed as the ultimate consignee or recipient on the Bill of Lading for container TRLU 2733410 which was issued by World. Plano is believed to have been the intended ultimate recipient of the steel molds and was responsible for the actions of its various agents: World, World Inc., THI, CMT and Kunshan. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4e.]

6) CMT INTERNATIONAL, INC.: UPRR is informed and believes that CMT contracted with Kunshan to fabricate the steel molds at its plant in China for forwarding through World and World, Inc., as well as KAM and "K" LINE to Plano. [T.D. Sheldon Decl. dated 7/31/06 ¶ 4f.]

7) SHANGHAI HAIXING YUANCHANG CONTAINER TRANSPORTATION CO., LTD. ("Shanghai") is believed to have performed the actual loading and stowing of the Steel Molds tendered for shipment by Kunshan. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4g.]

V. THE NEW YORK LAWSUITS

On the day on which these consolidated actions were removed to the Central District of California, two separate actions had already been pending in the Southern District of New York for nearly four months (with a collective amount in controversy of $325,273.56 sought by the plaintiffs) in connection with cargo damages stemming from the Tyrone derailment. There are nine suits currently pending in the Southern District of New York for recovery of cargo loss or damage stemming from the Tyrone derailment (hereafter "the New York Tyrone suits"):

1. *Indemnity Insurance Company of North America v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 0615, filed on 1/25/06. Amount sought by plaintiff for cargo loss/damage: $ 269,852.56
2. *Royal & Sun Alliance Insurance v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 2557 (US/BSJ) filed on 1/25/06. Amount sought by plaintiff for cargo loss/damage: $ 55,421.00.
3. *Mitsui Sumitomo v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 2956 filed on 4/17/06. Amount sought by plaintiff for cargo loss/damage: $ 1,546,836.00.
4. *ACK Controls, Inc. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3040 filed on 4/19/06. Amount sought by plaintiff for cargo loss/damage: $ 20,000.00.
5. *Philips PC Peripherals v. "K" Line, et al.*, S.D.N.Y., 06 CIV 2962 (Howell)[4] filed on 4/17/06.

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[4] UPRR is not yet named as a defendant in the *Phillips* matter.

Amount sought by plaintiff for cargo loss/damage: $ 221,708.89.

6. *Federal Insurance Co. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3038 filed on 4/19/06. Amount sought by plaintiff for cargo loss/damage: $ 42,211.00.
7. *Navigators Management Co. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3042 (BSJ) filed on 4/20/06. Amount sought by plaintiff for cargo loss/damage: $ 8,952.76.
8. *Snap-On Logistics v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3073 (LAP); filed on 4/21/06. Amount sought by plaintiff for cargo loss/damage: $ 28,000.00.
9. *Tokio Marine & Nichido Fire Ins. Co., Ltd., Fuji Photo Film Co., Ltd., Fuji Photo Film U.S.A., Inc. and Enovation Graphic Systems, Inc. et al. v. Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 51519 (VA), filed 7/6/06. Amount sought by plaintiff for cargo loss/damage: $775,000.00.

Each of the defendants, cross-defendants and third party defendants which have appeared in the New York Tyrone suits are represented by the same respective counsel.[5]

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[5] The following counsel represent the parties in all nine of the New York Tyrone suits except that in three of the New York Tyrone suits, the plaintiffs are represented by different counsel. David L. Mazoroli (for plaintiffs) in five of the nine New York suits; John Kimball (for "K" Line and KAM) in all nine New York Suits: Barry Gutterman & and Robert Mooney (for UPRR) in all nine New York suits; Andrew S. Buchanan (For CMT) in all nine New York suits, R. James Jude De Rose III (for Plano Molding) in all nine New York Suits and James Nathan Wolf (for World Services, LLC) in all nine New York Suits. The other plaintiffs'

In California, there are only four consolidated Tyrone derailment related suits ("the California Tyrone suits.")[6] There are no other suits currently filed in any venue other than the Southern District of New York and the Central District of California. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 5.]

UPRR's cross-complaints and third party complaints herein are modeled after and are virtually identical to those which had previously been filed in the New York Tyrone suits. [Decl. of Leslie G. McMurray ("LGM") dated 7/31/06 at ¶ 10.] Seven of the nine New York suits have been deemed related and it is anticipated that the remaining two will soon follow suit.[7] UPRR will shortly seek to coordinate and consolidate the New York cases before one judge to promote further judicial economy and convenience for the witnesses. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 6.]

VI. 28 U.S.C. SECTION 1404(A)

Under 28 U.S.C. §1404(a), "For the convenience of the parties and witnesses, in the interests of justice, a district court may transfer any civil action to any other

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counsel are Lawrence Glynn (For Navigators Management Co.), McDermott & Radzik (for Philips PC Peripherals and Keith Dalen (for Snap-On Logistics and *Tokio Marine Nichido Fire Ins. Co., Ltd. et al.*). [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 4.]

[6] The four related cases currently before this Court are as follows: *Regal-Beloit v. UPRR et al.*, CV 06-3016 DSF (FMOx); *Victory Fireworks v. UPRR et al.*, CV 06-3017 DSF (FMOx); *Royal Sun v. UPRR et al.*, CV 06-3019 DSF (FMOx) and *PICC v. UPRR et al.*, CV 06-3018 DSF (FMOx).

[7] The exception being the Snap-On Logistics case which is expected to be deemed related in the near future. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 6.]

district or division where it might have been brought." The District Court should consider three threshold questions: (1) Would the transferee court have subject matter jurisdiction over the case? (2) Would the defendants sued have been subject to personal jurisdiction? (3) Would venue be proper in the transferee district? *Hoffman v. Blaski*, 363 U.S. 335, 343-344, 80 S.Ct. 1084, 1089-1090 (1960).

> "[1404(a)] has been the subject of much litigation and several respected sources have called for its revision. *See Wright, Law of Federal Courts*, 2d Ed. (1970), § 44 at 170; 7 ALR Fed. 20. Most of the criticisms are directed at the 'where it might have been brought' phrase which many consider to be unnecessary in view of the broad scope of in personam jurisdiction and the requirement that a transfer be 'in the interests of justice.'."

A.J. Industries, Inc. v. United States District Court for the Central District of California, 503 F.2d 384 at 387 (9th Cir. 1974.)

Though 28 U.S.C. section 1404(a) expressly mentions only three factors, the court is not limited to those rather broad generalities, but may consider a myriad of other factors which are subsumed by the purpose of the statute. *SEC v. Page Airways, Inc.*, 464 F.Supp. 461, 463 (DC Dist. Col. 1978) citing to *Chicago, Rock Island and Pacific Railroad Company*, 220 F.2d 299 (7th Cir. 1955). Each case to be transferred must be evaluated on its own unique facts and among other factors to be considered are the relative congestion of calendars of the potential transferee and transferor courts, the relative ease of access to sources of proof, the availability of process to compel attendance of

unwilling witnesses, the cost of obtaining unwilling witnesses, the practical problems indicating where the case can be tried more expeditiously and inexpensively, and other practical aspects of expeditiously and conveniently conducting trial. *SEC v. Page Airways, Inc.*, 464 F.Supp. 461, 463 (DC Dist. Col. 1978); *Schneider v. Sears et al.*, 265 F.Supp. 257 at 263 (S.D.N.Y., 1967).

Importantly, although the Court will normally give a large measure of deference to the plaintiff's choice of forum,

> **"this factor has minimal value where none of the conduct complained of occurred in the forum selected by the plaintiff."**

Chicago, Rock Island and Pacific Railroad Company v. Igoe et al., 220 F.2d 299 at 304 (7th Cir. 1955)(emphasis added.) Moreover, plaintiff's selection of a forum will be given even less weight when the forum selected by the plaintiff is not his or her state of residence. As the complaints in these consolidated California Tyrone suits reveal, neither Regal-Beloit nor any of the plaintiffs in the four California Tyrone cases are citizens or residents of California (with the possible exception of Victory Fireworks).[8]

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[8] The plaintiffs' Complaints in the four related California Tyrone suits provide the following allegations about the plaintiffs' respective residences: Royal & Sunalliance - offices and place of business c/o Vericlaim in New York, New York (Complaint 1:23-25); Regal-Beloit - foreign corporation with office and principal place of business in Beloit, Wisconsin (Complaint 1:22-24); PICC - foreign insurance corporation with offices and principal place of business in Shanghai, China (Complaint 1:24-27);Victory Fireworks - doing business in the State of California with an office and place of business in Ellsworth, Wisconsin (Complaint 1:22-24).

And significantly for the transfer analysis in this particular case,

> "There is a strong policy favoring the litigation of related claims in the same tribunal in order that: (1) pretrial discovery can be conducted more efficiently; (2) the witnesses can be saved time and money, both with respect to pretrial and trial proceedings; (3) duplicitous litigation can be avoided, thereby eliminating unnecessary expense to the parties and at the time [sic] time serving the public interest; (4) inconsistent results can be avoided. (Footnote omitted.)

Schneider v. Sears, 265 F.Supp. 257, 266-267 (S.D.N.Y. 1967)(Denial of a motion to transfer was found an abuse of discretion.) The pendency of related actions in the transferee forum is a **significant factor** in considering the interest of justice factor. A.*J. Industries, Inc. v. United States District Court for the Central District of California*, 503 F.2d 384, 389 (9th Cir. 1974).

In the Ninth Circuit courts will transfer a case where either (1) the plaintiff's selection of a forum is so oppressive and vexatious to defendant as to be out of proportion to the plaintiff's convenience, which may be slight or nonexistent or (2) the trial in the chosen forum is inappropriate because of other considerations affecting court administration. *Paper Operations Consultants International, Ltd. v. SS Hong Kong Amber et al.*, 513 F.2d 667 at 669, n. 3 (9th Cir. 1975)(citing *Hoffman v. Goberman*, 420 F.2d 423, 426-7 (3rd Cir., 1970.)

The trial court's ruling on a motion to transfer will not be reversed on appeal absent an abuse of discretion and the appellate court will not substitute its judgment

for the trial court's. The determination of whether or not to transfer a case under 28 U.S.C. section 1404(a):

> "is entrusted to the sound discretion of the trial court. An appellate court may only reverse the decision of the district court if it constitutes an abuse of discretion. It is not the role of the appellate court to determine how it would have exercised its jurisdiction had the facts been presented to it. *The Belgenland*, 114 U.S. 355, 368, 29 L.Ed. 152, 5 S.Ct. 860 (1885). *The Kanto Maru*, 112 F.2d 564, 565 (9th Cir. 1940)..."

Paper Operations Consultants International, Ltd. v. SS Hong Kong Amver et al., 513 F.2d 667 at 670 (9th Cir. 1975).

> "Weighing of factors for and against transfer involves subtle considerations and is best left to the discretion of the trial judge."

Commodity Futures Trading Comm'n v. Savage, 611 F.2d 270, 279 (9th Cir. 1979). The factors in this case mandate transfer of these cases to New York.

VII. The Transferee Court Is One In Which the Action Might Have Been Brought

1. Subject Matter Jurisdiction

Plaintiff in this case brings claims which were removed unchallenged to this Court under federal question jurisdiction. Therefore, clearly the Southern District of New York would have the same federal question subject matter jurisdiction over this case.

2. Personal Jurisdiction

When considering where an action "might have been brought" the Court will look at the action "which existed when suit was instituted." *Hoffman v. Blaski*,

363 U.S. 335, 343-344, 80 S.Ct. 1084, 1089-1090 (1960)(emphasis added.) In this case, UPRR, "K" Line and KAM were the defendants sued by plaintiff. All three are subject to personal jurisdiction in New York.

UPRR has submitted to the jurisdiction of the Court in the Central District of New York in the New York Tyrone suits and will do so as well in connection with the California Tyrone suits once transferred. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 4.] Defendants "K" LINE and KAM are subject to personal jurisdiction in New York. [McMurray Decl. dated 7/31/06 at ¶ 12, and exhibit I thereto, Answer of "K" Line and KAM to the cross-claim of UPRR in the New York Tyrone suit entitled *Indemnity Insurance Company of North America v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06CIV0615, page 2, ¶ 4.] UPRR, "K" Line and KAM, have all been sued in the Southern District of New York by other insurance companies and shippers in the nine New York Tyrone suits, have each appeared and have answered those nine complaints in the Southern District of New York and are currently litigating in the Southern District of New York the exact same issues which will arise in this case. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 8.] Therefore, the complaint in this matter could have been filed in New York.

Importantly, **a suit "could have been brought" in a transferor forum under 28 U.S.C. section 1404(a) where an existing related action was already filed in the transferor forum by the same plaintiff as in the suit which the defendant sought to transfer.** *American Home Assurance Company v. Insular Underwriters Corporation*, 327 F.Supp. 717 at 719 (S.D.N.Y. 1971.) One of the plaintiffs in the related

California Tyrone suits (*Royal & Sun Alliance Insurance*) is also a plaintiff in one of the New York Tyrone suits. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 9.] Thus, the transferee forum is certainly one in which these consolidated actions could originally have been brought.

Although the transfer analysis does not concern itself with the question of whether or not the plaintiff would have been subject to personal jurisdiction in the transferor court, it is notable that Regal-Beloit is itself subject to personal jurisdiction in the Southern District of New York. Regal-Beloit is a Wisconsin Corporation listed on the New York Stock Exchange which manufactures products including boat transmissions and which has a division called Velvet Drive located in New Jersey that specifically serves and distributes products in various East Coast states including New York. [McMurray Decl. dated 7/31/06 at ¶ 3 and Exhibit A thereto.] [9]

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[9] The other plaintiffs in the California Tyrone suits are also subject to jurisdiction in New York. Plaintiff Royal & Sunalliance merged with Travelers Property Casualty in September of 2003 and maintains an agent in Long Island City, New York and in New York, New York, and it also filed a separate but related suit concerning cargo loss due to the Tyrone derailment in the Southern District of New York. [McMurray Decl. dated 7/31/06 at ¶ 8, and exhibit G thereto.] Plaintiff PICC Property and Casualty Company Limited formally opened a representative office in New York in May of 2002. [McMurray Decl. dated 7/31/06 at ¶ 9, and exhibit H thereto.] Plaintiff Victory Fireworks is believed to use Vericlaim in New York as its agent for processing claims. [McMurray Decl. dated 7/31/06 at ¶ 9, and exhibit M thereto.] However, in any event a showing that the transferor court has personal jurisdiction over the plaintiffs is neither a requirement nor even a factor to consider on a motion to transfer under section 1404(a).

3. Personal Jurisdiction Over the Third Party Defendants Is Not a Dispositive Factor

All of the defendants named in UPRR's third party complaint are the same third parties which have been or will be[10] named in the nine third party complaints filed in the New York Tyrone suits. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 10.] While their convenience may be considered in the balance of factors warranting transfer, whether or not the Southern District of New York has personal jurisdiction over these third party defendants is not a dispositive factor on a motion to transfer under 28 U.S.C. section 1404(a). *Probatter Sports, LLC v. Southamton Sports Zone*, 2003 U.S. Dist. LEXIS 18406 at *5.

> "The existence of a potential third party defendant or witness not subject to this Court's jurisdiction is certainly a factor to consider, but is not necessarily dispositive."

Id.

Third party defendants WORLD COMMERCE SERVICES, LLC. and WORLD COMMERCE SERVICES, INC. desire that these consolidated cases be transferred to New York. [McMurray Decl. dated 7/31/06 at ¶ 20.] They have designated an agent for service of process in New York and have appeared in the New York Tyrone suits without challenging jurisdiction in the Southern District of New York. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 12.] WORLD COMMERCE SERVICES, LLC. also

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[10] Third party Shanghai Haixing is absent from the *Indemnity Insurance* case to date but will be added shortly as a third party by amendment.

maintains an office in Rosedale, New York. [McMurray Decl. dated 7/31/06 at ¶ 4, and exhibit B thereto.]

Third party defendant CMT INTERNATIONAL, INC. is a corporation located in the Southern Illinois. It has appeared in the New York action and has filed a motion to be dismissed from the New York Tyrone suits claiming that the New York court has no personal jurisdiction over it. However, counsel for CMT has also indicated to counsel for UPRR in the California Tyrone suits that CMT is planning to bring a motion to be dismissed from this suit based on lack of jurisdiction in California. [McMurray Decl. dated 7/31/06 at ¶ 6.] CMT claims that neither forum has jurisdiction over it. Whatever the outcome of either of the motions to dismiss CMT, it cannot be said that California would be the more convenient forum for CMT to litigate in. In fact, California is an additional 936 miles further away from CMT's corporate headquarters than the Southern District of New York. [McMurray Decl. dated 7/31/06 at ¶ 6; exhibit D.] In any event it appears that the New York Courts do have jurisdiction over CMT by virtue of the fact that CMT is affiliated with third-party defendant Kunshan Yuanjin Plastic & Electronic Co., Ltd. and both are part of a large group of companies known as the En Jinn Group. En Jinn is a multinational corporation with headquarters in Taiwan. [McMurray Decl. dated 7/31/06 at ¶¶ 15-18 and exhibits N - P thereto.]

Third party defendant Plano Molding Company is a corporation located in Plano, Texas. [McMurray Decl. dated 7/31/06 at ¶ 7; exhibit E.] Plano Molding Company has also brought a motion to dismiss for lack of personal jurisdiction in the New York forum and has

also indicated to UPRR's counsel in this case that it intends to move this Court to dismiss it from these consolidated actions on the basis of lack of jurisdiction. Plano claims that neither forum has jurisdiction over it. Whatever the outcome of the motion to dismiss Plano, it cannot be said that California would be the more convenient forum for Plano to litigate in. Moreover, California is 1,149 additional miles further away from Plano Molding's corporate headquarters than the Southern District of New York so that New York is the more convenient forum for Plano vis-a-vis California. [McMurray Decl. dated 7/31/06 at ¶ 7; Exhibit F.]

Nor can it be said that New York has no jurisdiction over Plano. In fact, Plano Molding Company has a division called Plano Tackle Systems which has a retailer (Sports Authority) which carries Plano's products in Manhattan, New York. [McMurray Decl. dated 7/31/06 at ¶ 7, and exhibit E thereto.] Plano's products are also sold in New York at the Wal-Mart on Long Island just 15 miles from the courthouse of the Southern District of New York. Plano also markets its products nationally through its website, directing customers to retailers within New York, Plano's products are sold in New York and retailers and mass-retailers sell Plano's products throughout the United States, including in stores in New York, and thus Plano receives revenue from sales in New York. [See Exhibit B (Siroky Aff.) to paragraph 13 of the Decl. of Barry N. Gutterman dated 7/31/06.] Plano's retailers make Plano products available on line for New York customers which are then sent to these customers in New York. *Id.* Plano concedes that it has three divisions which have sales representatives whose

territories cover New York and that these three divisions of Plano have managers who may call on any customer in New York once or twice a year at which time Plano's sales employee will present a Plano product, its pricing and the Plano sales program to the buyer of a specific category of retail product. (Siroky Aff., ¶ 20.) Plano concedes that it receives income from sales in New York. (Siroky Aff., ¶ 25.) Plano also maintains a relationship with G. Hirschfeldt Co., L.L.C., a New York Corporation with an office in New York, who functions as a sales represenative for Plano by acting as an international consolidator. (Siroky Aff., ¶ 26.) G. Hirschfeldt purchases product from Plano which it resells internationally. G. Hirschfeldt solicits orders from international customers out of its New York offices. (Siroky Aff., ¶ 27.)

On its website, Plano directs customers and retailers nationwide, including within New York. Selling products to a national market puts a manufacturer on notice that its act of selling within the national market will have consequences in New York. *Bean Dredging Corporation et al. v. Rogers-Olympic Corporation*, 744 F.2d 1081 at 1084-85 (5th Cir. 1984).

Three of the third party defendants named in this suit (and named in the New York Tyrone suits) are Chinese entities. UPRR has commenced the rather cumbersome process of serving process on those entities (KUNSHAN YUANJIN PLASTIC & ELECTRONIC CO., LTD., THI GROUP, LTD., and SHANGHAI HAIXING YUANCHANG CONTAINER TRANSPORTATION CO., LTD.) [McMurray Decl. dated 7/31/06 at ¶ 13.] It is anticipated that it may take three to six months to effectuate service on the Chinese entities. [Id.]

Presumably the Chinese entities would argue that litigating in either New York or California would be inconvenient. Therefore, the convenience of those third party defendants does not tip the scale in either direction in the transfer analysis. In any event, whether the court has personal jurisdiction over third party defendants **is not a dispositive factor in the transfer analysis**. The weightier factors in the transfer analysis all militate in favor of transfer of these California Tyrone cases to the Southern District of New York.

4. Venue is proper in the Southern District of New York

For purposes of transfer, the court looks only at whether the action could have been filed in the Southern District of New York as it existed at the time of the filing in California. *Hoffman v. Blaski*, 363 U.S. 335, 343-344, 80 S.Ct. 1084, 1089-1090 (1960). The Court therefore does not consider for venue purposes, the third party defendants which UPRR has brought into the suit after the original complaint was filed.

Under 28 U.S.C. section 1391(b), the federal "general venue" provision, in any action in which jurisdiction is not based solely on diversity, the action may be brought in (1) a judicial district where any defendant resides if all defendants reside in the same state. The term "resides" in this context is synonymous to where defendants are subject to personal jurisdiction. *Arley v. United Pacific Ins. Co.*, 379 F.2d 183, 185 (9th Cir. 1967).

> "For purposes of venue....a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to

> personal jurisdiction at the time the action is commenced...."

28 U.S.C. section 1391(c).

In this case, as demonstrated above, all three defendants sued by plaintiff herein (UPRR, "K" Line and KAM) are subject to personal jurisdiction in New York. Therefore, venue is proper in the Southern District of New York.

VIII. THE CONVENIFNCE OF PARTIES AND WITNESSES AND INTERESTS OF JUSTICE MANDATE TRANSFER TO NEW YORK

A. Transfer Will Eliminate Duplicative Litigation

In considering a transfer motion, the Court should consider whether transfer will avoid duplicative litigation, effect judicial economy and prevent waste of time and money. *Schneider v. Sears*, 265 F.Supp. 257, 266-267 (S.D.N.Y. 1967).

> "There is a strong policy favoring the litigation of related claims in the same tribunal..."

Schneider v. Sears, 265 F.Supp. 257, 266-267 (S.D.N.Y. 1967).

The federal judicial system will be grossly and unnecessarily overburdened if the exact same issues in the Tyrone suits are tried simultaneously in two courts on opposite sides of the United States. The same issues which will necessarily arise in the courts in both California and New York include:

1) UPRR's liability, if any, for the derailment;

2) UPRR's handling of the post derailment transfer, transloading and/or disposal of containers involved in the derailment;

3) The extent and value of UPRR's property damage caused by the derailment;

4) Liability of cross-defendants in causing or contributing to the derailment;

5) Liability of third party defendants in causing or contributing to the derailment;

6) UPRR's right to recover against "K" Line;

7) UPRR's right to recover against KAM;

8) UPRR's right to recover against each of the seven third party defendants.

9) UPRR's entitlement to package limitations and other defenses in the "K" Line / KAM bills of lading.

Without transfer, two courts in two states would be burdened with marshaling the discovery process, hearing discovery motions, ruling on dispositive motions, managing pre-trial proceedings, conducting settlement conferences and ultimately, bringing the same witnesses to two courts, once in California and once in New York. Clearly having all thirteen of the cases tried in the same forum would result in discovery, pretrial and trial proceedings which are far more expeditious and cost effective for all involved. Without transfer, willing witnesses would have to travel to and attend hearings and depositions in both California and New York. Unwilling witnesses would be compelled to come to these two states to give the exact same testimony.

B. Transfer will Eliminate the Risk of Inconsistent Adjudications of Fact and Law and Inconsistent Verdicts

Litigation in two states simultaneously subjects the parties to the risk of inconsistent adjudications of identical questions of fact or law and to the risk of

inconsistent verdicts. In related cases in different forums, this is a particularly onerous risk that can be eliminated by transferring the related cases into one single forum. *Schneider v. Sears*, 265 F.Supp. 257, 266-267 (S.D.N.Y. 1967).

C. The Southern District of New York Is Given Priority

Under section 1404(a), a bright line rule is applied giving priority to the court wherein the first of two or more related actions was filed (i.e., the "first filed" rule.) *Midwest Motor Express Inc., et al. v. Central States Southeast and Southwest Areas Pension Fund*, 70 F.3d 1014 at 1017 (8th Cir. 1995) *cert. denied*, 517 U.S. 1203; 116 S.Ct. 1704; 134 L.Ed.2d 803 (1996). In *Midwest Motor Express, Inc.*, the Court of Appeal upheld the district court's transfer of a case based on the "first filed" rule stating:

> "We affirm the district court and it decision to transfer this case based upon the "first-filed" rule. This rule gives priority for purposes of choosing among possible venues when parallel litigation has been instituted in separate courts, to the party who first establishes jurisdiction." *Northwest Airlines, Inv. v. American Airlines, Inc.*, 989 F.2d 1002, 1006 (8th Cir. 1993)."

Midwest Motor Express Inc., supra, 70 F.3d at 1017.

In this case, the Southern District of New York is given priority over the Central District of California by virtue of the fact that the Southern District of New York first obtained jurisdiction over two Tyrone derailment suits nearly four months before the Central District of California obtained jurisdiction over its first Tyrone suit. The first two New York Tyrone suits

were filed on January 25, 2006, nearly three months before this suit was filed in state court in California and nearly four months before this suit was removed to federal court (in mid-May of 2006). [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 3.] The "first filed" rule mandates transfer, of this consolidated case to the Southern District of New York.

D. There Is No Nexus to this Case and the Central District of California

Plaintiffs' case concerns cargo damage occurring in Oklahoma. UPRR's cross-claims and third party complaints concern property damage occurring in Oklahoma. This case involves no California law. There are no known witnesses residing within the Central District of California. There is no reason whatsoever to give any priority to the Central District of California other than the mere fact that the plaintiff selected California as its forum. And that fact is given minimal weight when, as here, none of the events at issue occurred in the transferor state, *Chicago, Rock Island and Pacific Railroad Company v. Igoe et al.*, 220 F.2d 299 at 304 (7th Cir. 1955), and where, as here, plaintiff does not reside in the transferor state.

> "...[W]hen the plaintiff chooses a forum which has no connection to himself or the subject matter of the suit, and is thus not his "home turf," the burden on the defendant is reduced and it is easier for the defendant to show that the balance of convenience favors transfer."

Chrysler Capital Corporation et al. v. Woehling, 663 F.Supp. 478 at 482 (D. Del. 1987); *accord Amazon.com v. Cendant Corp.*, 404 F.Supp.2d 1256 at 1260 (W.D. WA 2005).

None of the percipient witnesses to the derailment are believed to be located within California, witnesses regarding the damages and damages calculations incurred by plaintiff and by UPRR are believed to be located outside of California. Tangible evidence relating to the derailment including the steel molds and the container are all located outside of California. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 4.] Accordingly, all of the depositions of percipient witnesses are likely to be taken outside of California. California has no nexus whatsoever to the derailment, the property damage, the law to be applied, nor any of the issues before this Court, other than the mere fact that plaintiff herein filed its action here. The Central District of California has no interest in the resolution of these consolidated actions. Where the forum lacks any significant contact with the activities alleged in the complaint, the plaintiff's choice of forum will be given considerably less weight. *Chrysler Capital Corp. v. Woehling*, 663 F.Supp. 478, 482 (D.DE 1987).

The Southern District of New York has a far greater interest in the resolution of this case. Twelve plaintiffs in the nine New York Tyrone suits each selected New York as their forum of choice. At least one of the plaintiff's in the California Tyrone suits is also a plaintiff in one of the New York Tyrone suits (Royal & Sunalliance Co.)[11] Two of the plaintiffs in the New York Tyrone suits (Fuji Photo Film, U.S.A., Inc. and Enovation Graphic Systems, Inc. maintain offices in New York.) [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 9.]

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[11] The Royal & Sun case in New York is for recovery by the plaintiffs of $ 55,421.00 versus the $3,012.00 at issue in Royal & Sun's California suit.

Importantly, New York law will govern the resolution of many of the critical issues in this case. In *Paper Operations Consultants International, Ltd. v. SS Hong Kong Amber et al.*, 513 F.2d 667 at 670 (9th Cir. 1975), the Ninth Circuit examined an argument that the Northern District of California was a forum non conveniens in a cargo loss case. In determining to transfer the matter outside of California, the Court held that Vancouver was the more appropriate forum in part because Canadian law would govern the issues in the case.

In this case, New York law factors heavily into the Tyrone cases. First, New York law will govern resolution of the rights and obligations of UPRR, "K" Line, KAM, the consignee, the receiver and beneficial owner and their agents and contractors under UPRR DER-UP-C-21300-A.

Second, Transamerica ICS, the entity which entered into the Master Lease Agreement with "K" Line for the lease of the container which the molds broke through, fouling the tracks and resulting in the derailment, is located at 522 Fifth Avenue, New York, New York 10036. [T.D. Sheldon Decl. dated 7/31/06 at ¶ 6; and See Exhibit B, Master Lease Agreement at page 2, para. 22.]

Paragraph 22 of that Master Lease Agreement states that ICS and "K" Line have agreed that any claim or controversy relating to the lease **can only be filed in the federal or state courts in New York**. A contract provision designating the forum in which a dispute is to be heard is a "**significant factor**" in § 1404(a) determinations. *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29-30, 108 S.Ct. 2239, 2244, 101 L.Ed.2d 22(1988).

K Line has designated CT Corporation in New York as its agent for accepting service of process within New York in connection with the Master Lease Agreement. And the Master Lease Agreement expressly states that,

> **"This Agreement shall be governed by the laws of the State of New York, U.S.A."**

[T.D. Sheldon Decl. dated 7/31/06 at ¶ 6; and See Exhibit B, Master Lease Agreement at page 2, paragraph 22 (emphasis added.)] Thus New York law may be applied to resolve issues relating to responsibility for the container which the molds broke through.

Third, a Service Contract between "K" Line and World Commerce Services LLC was also in place at the time of the shipments at issue. That contract concerns bill of lading provisions, shipping volumes. It contains damages provisions which provide as follows:

> **"DISPUTES/APPLICABLE LAW**
>
> **The substantive law of the State of New York shall govern this Contract and the parties submit to the jurisdiction of the U.S. District Court for the Southern District of New York for all purposes."**

[T.D. Sheldon Decl. dated 7/31/06 at ¶ 7; and See Exhibit C, Service Contract between "K" Line and World Commerce Services, LLC at page KL-231, clause XII, (emphasis added.)]

Thus while California has no interest in the resolution of this case, New York has numerous weighty interests in the resolution of the issues in all of the thirteen Tyrone suits.

E. The Amounts in Controversy Are Greater In New York

The combined amount in controversy of all of the plaintiffs' alleged cargo loss claims in the New York Tyrone suits totals $2,912,561.00. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 7.] In stark contrast, combining all of plaintiff's claimed damages in the four California suits only amounts to $156,429.77. [McMurray Decl. dated 7/31/06 at ¶ 2.] As between New York and California, the plaintiffs in New York (which selected New York as their forum of choice) have by far the higher amounts in controversy.

F. The Location of Witnesses Mandate Transfer

The parties have disclosed extensive witness lists to date in this case and have filed them with the Court. Using the filed witness list as a guide, the witnesses (other than counsel) disclosed on that list are located in the geographical locations set forth below. The list below evidences the fact that the majority of witnesses reside in states which are substantially closer to New York than they are to California.

Witnesses' Residence	Witnesses
Indiana	1 witness
Wisconsin	1 witness
Illinois	5 witnesses
New York	1 witness
Virginia	5 witnesses
China	4 witnesses
Kansas	3 witnesses
Nebraska	7 witnesses
Texas	5 witnesses
Missouri	4 witnesses

[Decl. of LGM dated 7/31/06 at ¶ 4.] New York is a more convenient location for these witnesses to attend trial than California.

G. Both the Central District of California and the Southern District of New York Are Busy Forums But the Southern District of New York Has More Judges

The Central District of California is the largest district by population of all of the federal districts, since it encompasses practically all of the Los Angeles metropolitan area, while the City of New York is divided between the Southern and Eastern Districts of New York, and many New York suburbs are covered by district courts in New Jersey and Connecticut. Along with the Northern District of Illinois, these three courts have the most judges, personnel and facilities and publish the largest portion of opinions reported in the Federal Supplement. [See Exhibit K to the Decl. of LGM dated 7/31/06.] The Southern District of New York has 45 active sitting judges as of 2006 whereas the Central District of California has only 33 active sitting judges as of 2006. [See Exhibit L to the Decl. of LGM dated 7/31/06 (excerpts from the United States District Courts' official websites.).] Thus the Southern District of New York is better equipped to provide a speedier trial to the parties to the thirteen Tyrone derailment suits.

H. The Probability of Consolidation In New York Warrants Transfer

UPRR will seek to coordinate and consolidate the New York Cases before one judge to promote further judicial economy and convenience for the witnesses. [Decl. of Barry N. Gutterman dated 7/31/06 at ¶ 6.]

> "The feasibility of consolidation is a significant factor in the transfer decision, *Van Dusen v. Barrack*, 376 U.S. 612, 11 L.Ed. 2d 945, 84 S.Ct. 805 (1964), although even the pendency of an action in another district is important because of the positive effects it might have in possible consolidation of discovery and convenience to witnesses and parties. *Schneider v. Sears*, 265 F.Supp. 257 (1967); *Rogers v. Northwest Airlines, Inc.*, 202 F.Supp. 309 (1962)."

A.J. Industries, Inc. v. United States District Court for the Central District of California, 503 F.2d 384 at 389 (9th Cir. 1974). The fact that the thirteen actions, upon transfer, will be in the same court, and that UPRR will seek to coordinate all thirteen of the actions is an important factor warranting transfer of this consolidated case to the Southern District of New York.

I. Removal of this Case Does Not Affect Transfer

The fact that this case was originally venued in California state court then removed to the Central District of California does not affect UPRR's right to seek transfer of this matter to the Southern District of New York. *Piekarski v. Home Owners Sav. Bank*, 743 F.Supp. 38 at 43 (D.DC. 1990).

IX. CONCLUSION

This Court has the discretion to transfer these cases to the Southern District of New York. Judicial economy and the interests of the parties and witnesses will be served if all thirteen cases are resolved in one forum. The Southern District of New York first obtained jurisdiction over the cases giving it priority. New York law governs three key contracts affecting

the parties. New York has the stronger interest in resolution of these cases than California, which has no nexus to this case. The nine New York suits have the highest dollar amount in controversy. Plaintiff's choice of forum is not entitled to much weight when none of the events occurred in California, none of the affected property is located in California and plaintiff does not reside in California. The factors mandate transfer to New York.

Respectfully submitted.

Dated: August 17, 2006

LAW OFFICES OF LESLIE G. MCMURRAY

BY: s/Leslie G. McMurray
LESLIE G. MCMURRAY
Counsel for UNION PACIFIC RAILWAY COMPANY

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UNION PACIFIC RAILROAD COMPANY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGAL-BELOIT CORPORATION	)	CV 06 3016 DSF (FMOx)
Plaintiff,	)	[(CONSOLIDATED WITH CV 06 3017 DSF (FMOx); CV 06 3018 DSF (FMOx); CV 06 3019 DSF (FMOx)]
vs.	)	
KAWASAKI KISEN KAISHA, LTD.; "K" Line AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY and DOES 1 through 20, inclusive	)	[Assigned to Hon. Judge Dale S. Fischer]
	)	**DECLARATION OF BARRY N. GUTTERMAN AND EXHIBITS THERETO IN SUPPORT OF UNION PACIFIC RAILROAD COMPANY'S NOTICE OF MOTION AND MOTION TO**
Defendants.	)	

UNION PACIFIC RAILROAD COMPANY, Cross-complainant, vs. KAWASAKI KISEN KAISHA, LTD.; "K" Line AMERICA, INC., AND ROES 1 through 5, inclusive, Cross-defendants.	)	**TRANSFER TO THE SOUTHERN DISTRICT OF NEW YORK PURSUANT TO 28 U.S.C. SECTION 1404(a)** DATE: September 18, 2006 TIME: 1:30 P.M. PLACE: Courtroom 840 (Roybal Building)
And related third party complaint.	)	

DECLARATION OF BARRY N. GUTTERMAN

I, the undersigned, declare the following to be true and correct and known to me personally except for those matters stated on information and belief and as to those matters, I believe them to be true:

1. I am counsel of record for the Union Pacific Railroad Company in nine suits which are currently filed in United States District Court in the Southern District of New York. I make this declaration in support of Union Pacific Railroad Company's motion to transfer the above captioned case (and the three related cases) to the Southern District of New York.

2. Two federal cases filed against Defendant Union Pacific Railroad Company (hereafter "UPRR"), Defendant "K" Line America, Inc. (hereinafter,

"KAM") and Defendant Kawasaki Kisen Kaisha, Ltd. (hereinafter, "K" Line") were pending in the Southern District of New York since January 25, 2006 (with a collective amount in controversy of $325,273.56 sought by the plaintiffs) in connection with cargo damages stemming from the Tyrone derailment. These first two Tyrone derailment suits were filed nearly four months before the above captioned suit was removed to the Central District of California (on or about May 17, 2006.)

3. There are currently nine suits pending in the Southern District of New York wherein plaintiffs are alleging their entitlement to a recovery for cargo losses or damage arising from the Tyrone derailment (hereafter "the New York Tyrone suits.") The nine New York Tyrone cases are identified below as follows:

a. *Indemnity Insurance Company of North America v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06CIV0615, filed on 1/25/06. Amount sought by plaintiff for cargo loss/damage: $ 269,852.56.

b. *Royal & Sun Alliance Insurance v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., CV 2557 (US/BSJ) filed on 1/25/06. Amount sought by plaintiff for cargo loss/damage: $ 55,421.00.

c. *Mitsui Sumitomo v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CV 2956 filed on 4/17/06. Amount sought by plaintiff for cargo loss/damage: $ 1,546,836.00.

d. *ACK Controls, Inc. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06CIV 3040 filed on 4/19/06. Amount sought by plaintiff for cargo loss/damage: $ 20,000.00.

e. *Philips PC Peripherals v. "K" Line, et al.*, S.D.N.Y., 06 CIV 2962 (Howell)[1] filed on 4/17/06. Amount sought by plaintiff for cargo loss/damage: $ 221,708.89.

f. *Federal Insurance Co. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3038 filed on 4/19/06. Amount sought by plaintiff for cargo loss/damage: $ 42,211.00.

g. *Navigators Management Co. v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CV 3042 (BSJ) filed on 4/20/06. Amount sought by plaintiff for cargo loss/damage: $ 8,952.76.

h. *Snap-On Logistics v. "K" Line, Union Pacific Railroad Company*, S.D.N.Y., 06 CIV 3073 (LAP); filed on 4/21/06. Amount sought by plaintiff for cargo loss/damage: $ 28,000,00.

i. *Tokio Marine & Nichido Fire Ins. Co., Ltd. et al. v. Union Pacific Railroad Company*, S.D.N.Y., 06 CV 51519 (VA), filed 7/6/06. Amount sought by plaintiff for cargo loss/damage: $775,000.00.

4. The three defendants named by plaintiffs in the New York Tyrone cases are Union Pacific Railroad Company ("UPRR"), "K" Line America, Inc. (hereinafter, "KAM") and Kawasaki Kisen Kaisha, Ltd. (hereinafter, "K" Line.") Each of the defendants, cross-defendants and third party defendants which have appeared in the New York Tyrone suits are represented by the same respective counsel. The following counsel represent the parties in the New York Tyrone suits:

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[1] UPRR is not yet named as a defendant in the *Phillips* matter.

David L. Mazoroli (for plaintiffs) in five of the nine New York suits;

John Kimball (for "K" Line and KAM) in all nine New York suits;

Barry Gutterman, Robert Mooney (for UPRR) in all nine New York suits;

Andrew S. Buchanan (For CMT) in all nine New York suits;

R. James Jude De Rose III (for Plano Molding) in all nine New York suits;

James Nathan Wolf (for World Services, LLC) in all nine New York Suits.

Lawrence Glynn (For Navigators Management Co.);

McDermott & Radzik (for Philips PC Peripherals, Tokio Marine & Nichido Fire Insurance Co., Ltd., Fuji Photo Film Co., Ltd., Fuji Photo Film USA, Inc., and Enovation Graphic Systems, Inc.);

Keith Dalen (for Snap-On Logistics).

5. Other than the nine New York Tyrone suits and the four California Tyrone suits and, there are no other suits relating to cargo loss or damage claims known to be currently filed in any venue.

6. Seven of the nine New York Tyrone suits have been deemed related. It is anticipated that the remaining two (brought by Snap-On Logistics and by Tokio Marine) will be deemed related. UPRR will seek to coordinate the New York cases before one judge and to consolidate the cases to promote further judicial economy and convenience for the witnesses.

7. The combined amount in controversy of all of the plaintiffs' alleged cargo loss claims in the New York

Tyrone suits totals $2,912,561.00.

8. UPRR, K-Line and KAM have all appeared and have answered the complaints filed in the Southern District of New York and are currently litigating in that district the exact same issues which will arise in the above captioned case in terms of liability for the derailment.

9. One of the plaintiffs in the related California suit (*Royal & Sun. Alliance Insurance*) is also a plaintiff in one of the New York Tyrone suits. And according to their Complaint, two of the plaintiffs in the New York Tyrone suits (Fuji Photo Film, U.S.A., Inc. and Enovation Graphic Systems, Inc. have offices in New York) with Fuji Photo Film, U.S.A., Inc. being a New York Corporation. Exhibit A is a true and correct copy of the Complaint in that Tokio Marine suit. See page 1, ¶¶ 4 and 5 to see the plaintiffs' averments regarding their New York offices.

10. All of the defendants named in UPRR's third party complaint are the same third parties which have been or will be[2] named in the nine third party complaints filed in the New York Tyrone suits.

11. Union Pacific has submitted to the jurisdiction of the Court in the Central District of New York in the New York Tyrone suits and will do so as well in connection with the California Tyrone suits once transferred.

12. Third party defendants WORLD COMMERCE SERVICES, LLC. and WORLD COMMERCE SERVICES, INC. have designated an

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[2] Third party Shanghai Haixing is absent from the *Indemnity Insurance* case to date but will be added shortly as a third party by amendment.

agent for service of process in New York and have appeared in the New York Tyrone suits without challenging jurisdiction in the Southern District of New York.

13. Third Party Defendant Plano Molding Company ("Plano") is also a third party defendant in the nine New York Tyrone suits. Plano has brought a motion to dismiss in one of those suits based in part on the allegation that the United States District Court in the Southern District of New York has no jurisdiction over Plano. I am one of the counsel of record opposing Plano's motion to dismiss and have reviewed Plano's opposition papers and the affidavit of Lisa Siroky submitted by Plano in support of its motion. Attached hereto as Exhibit B, a true and correct copy of the affidavit of Lisa Siroky, an employee of Plano, dated May 1, 2006 which Plano submitted with its papers in the New York Tyrone suit brought by *Indemnity Insurance Company*. Based on the statements made by Siroky in her affidavit, I am informed and believe that the following facts are true:

a) Plano has three divisions which have sales representatives whose territories cover New York and that these three divisions of Plano have managers who call on customers in New York once or twice a year at which time Plano's sales employee will present the customer with a Plano product, its pricing and the Plano sales program. (See Siroky Aff., at ¶ 20.)

b) Plano receives income from sales in New York. (See Siroky Aff., ¶ 25.)

c) G. Hirschfeldt Co., L.L.C., a New York Corporation with an office in New York, functions as a sales representative for Plano by acting as an international consolidator. (Siroky Aff., ¶ 26.) G.

Hirschfeldt purchases product from Plano which it resells internationally. G. Hirschfeldt solicits orders from international customers out of its New York offices. (Siroky Aff., ¶ 27.)

Plano's products are sold in New York at the Wal-Mart on Long Island just 15 miles from the courthouse of the Southern District of New York. Plano markets its products nationally through its website, directing customers to retailers within New York, Plano's products are sold in New York and retailers and mass-retailers sell Plano's products throughout the United States, including in stores in New York. Plano receives revenue from sales of its products in New York. On its website, Plano directs customers and retailers nationwide, including within New York.

14. Third Party Defendant CMT International, Inc. ("CMT") is also a third party defendant in the nine New York Tyrone suits. CMT has brought a motion to dismiss in one of those suits based in part on the allegation that the United States District Court in the Southern District of New York has no jurisdiction over CMT.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and if called to testify thereto I would and could do so competently in a court of law. Sworn to this 31st day of July in New York, New York.

s/Barry N. Gutterman
Barry N. Gutterman

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KAWASAKI KISEN KAISHA, LTD. and
"K" LINE AMERICA, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

REGAL-BELOIT CORPORATION,	)	CASE NO. CV 06-3016 DSF (FMOx)
Plaintiff,	)	AND
vs.	)	CONSOLIDATED ACTIONS: CV 06-3017, CV- 06-3018 and CV 06-3019
KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY and DOES through 20, inclusive,	)	**DECLARATION OF SHERRY JOHNSON IN SUPPORT OF DEFENDANTS KAWASAKI KISEN KAISHA, LTD.'S AND "K" LINE AMERICA, INC.'S MOTION TO DISMISS PURSUANT TO THE**
Defendants.	)	
AND RELATED CROSS	)	

CLAIMS AND THIRD PARTY COMPLAINT	**TOKYO DISTRICT COURT FORUM SELECTION CLAUSE IN THE BILL OF LADING**
VICTORY FIREWORKS, INC., Plaintiff, vs. KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20 , inclusive, Defendants.	Hearing Date: Sept. 18, 2006 Time: 1:30 P.M. Courtroom: 840 Roybal Federal Building Honorable Dale S. Fischer
AND RELATED CROSS CLAIMS AND THIRD PARTY COMPLAINT	
PICC PROPERTY & CASUALTY COMPANY LIMITED SHANGHAI BRANCH, Plaintiff, vs. KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.	

UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 2 , inclusive,	)
Defendants.	)
AND RELATED CROSS CLAIMS AND THIRD PARTY COMPLAINT	).
ROYAL & SUN ALLIANCE INSURANCE CO., LTD.,	)
Plaintiff,	)
vs.	)
KAWASAKI KISEN KAISHA, LTD.; K-LINE AMERICA, INC.; UNION PACIFIC RAILROAD COMPANY; BURLINGTON NORTHERN AND SANTA FE RAILWAY; and DOES 1 through 20 , inclusive,	)
Defendants.	)
AND RELATED CROSS CLAIMS AND THIRD PARTY COMPLAINT.	)

DECLARATION OF SHERRY JOHNSON

I, Sherry Johnson, declare as follows:

1. I am the Assistant Manager of Compliance of "K" Line America, Inc. (hereinafter "KAM") in their office at 8730 Stony Point Parkway, Suite 400, Richmond, Virginia.

2. I make this Declaration on behalf of Kawasaki Kisen Kaisha, Ltd.(hereinafter "K" Line) and KAM in support of their motion to dismiss pursuant to the Tokyo District Court forum selection clause in the "K" Line bill of lading. I have personal knowledge of the facts set forth in this Declaration and for those facts stated to be on information and belief, I believe them to be true and correct. If called upon as a witness, I could and would competently testify thereto.

3. I have been employed as the Assistant Manager of Compliance of KAM for 8 years. In my capacity as Assistant Manager of Compliance, I am responsible for handling and supervising all cargo claims filed against "K" Line in the United States and Canada. I am also familiar with the process for preparing and issuing bills of lading. Such bills of lading are issued and kept in the regular course of business of "K" Line and KAM. No cargo is shipped without the issuance of a bill of lading. We rely upon such bills of lading for their truth and accuracy in the shipment of the cargo described therein.

4. "K" Line is an ocean carrier organized and existing under the laws of Japan with its headquarters and principal place of business in Tokyo, Japan.

5. KAM, also doing business as The Rail Bridge Corporation, is a Michigan corporation with its principal place of business in Richmond, Virginia. KAM is the general agent of "K" Line in the United

States. As general agent, KAM performs agency services for "K" Line in the United States including dispatching and receiving "K" Line's vessels, arranging for husbanding services and labor as may be required to load, stow and discharge "K" Line's vessels, soliciting and booking of cargo on behalf of "K" Line, issuing shipping documents on behalf of "K" Line, collecting freight, demurrage and other revenue for "K" Line, arranging for inland transportation of "K" Line containers, and handling claims on behalf of "K" Line.

6. I am informed and believe that on or about April 3, 2005, containers KKTU7192886 and KLTU7626760, said by the shipper to container electric motors, were received by "K" Line in Shanghai for carriage to Indianapolis, Indiana, via the Port of Long Beach, in accordance with the terms and conditions of bill of lading KKLUSH7807066.

7. I am informed and believe that seven containers, said by the shipper to contain electric motor parts, were receive by "K" Line in Shanghai for carriage to Milwaukee, via the Port of Long Beach, in accordance with the terms and conditions of bill of lading KKLUSH7807068.

8. I am informed and believe that container KKTU7102774, said by the shipper to contain retainer rail casting, was received the "K" Line in Zhangjiagang for carriage to Chicago via the Ports of Shanghai and Long Beach.

9. I am informed and believe that the ten containers referenced in paragraphs 6, 7 and 8 above were loaded on the CHANG JIANG BRIDGE, Voyage 38E, and were carried from Shanghai to Long Beach where they were discharged.

10. I am informed and believe that the ten containers were delivered to Union Pacific Railroad Company in Long Beach for rail carriage to Indianapolis, Milwaukee and Chicago.

11. I am informed and believe that container KKFU1595257, said by the shipper to contain fireworks, was received by "K" Line in Beihai, People's Republic of China, for carriage to Minneapolis, via the Ports of Hong Kong and Long Beach. I am further informed the container was carried on the vessel CHISWICK BRIDGE, Voyage 14E from Hong Kong to Long Beach. I am further informed the container was delivered to Union Pacific for carriage to Minneapolis.

12. I am informed and believe that on or about April 21, 2005, at or near Tyrone, Oklahoma, the Union Pacific train carrying the above-mentioned containers derailed.

13. On behalf of "K" Line, "K" Line America arranged for the rail carriage of the containers with Union Pacific. The rail carriage of the above mentioned containers by Union Pacific was performed pursuant to the Exempt Rail Transportation Agreement dated as of August 1, 2003. The rail carriage was also subject to the Master Intermodal Transportation Agreement, which is incorporated in reference in the Exempt Rail Transportation Agreement. A true and correct copy of the Exempt Rail Transportation Agreement (with rate information redacted for confidentiality purposes) is attached hereto as Exhibit "A". A true and correct copy of the Master Intermodal Transportation Agreement is attached as Exhibit "B".

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed at Richmond, Virginia, this 12 day of August 2006.

s/ Sherry Johnson
Sherry Johnson

CUSTOMER COUNTERPART

DER-UP-C-21300-A

C.D. No. 54949-1-A

EXEMPT RAIL TRANSPORTATION AGREEMENT

THIS amended AGREEMENT is made and entered into as of August 1, 2003, among UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, having an office at 1416 Dodge Street, Omaha, Nebraska 68179 (hereinafter "UP") and KAWASAKI KISEN KAISHA, LTD. (KKK), a Japanese Corporation, with offices at 2-9 Nishi-Shinbashi 1-Chome, Minato-Ku, Tokyo 105-0003, Japan, by and through its duly authorized agent and representative in the United States, "K" Line AMERICA, INC. (KAM), a Michigan corporation, with offices at 8730 Stony Point Parkway, Suite 400, Richmond, VA 23235, together hereinafter Kawasaki Kisen Kaisha, LTD., and "K" Line America, Inc. shall be collectively referred to as("K" Line).

* * *

Section 2. MINIMUM TRANSPORTATION REQUIREMENT.

A. "K" Line agrees that during each twelve (12) month period of this Agreement commencing August 1, 2003, "K" Line shall tender to UP not less than 95% of its Container traffic, including traffic interchanged with eastern connecting railroads, via the routings specified in Exhibits 1 and 2 of this Agreement.

* * *

Section 5. TRANSPORTATION RATES.

In consideration for UP providing "K" Line with terminal and rail Linehaul transportation services of its loaded or empty Containers and Chassis, "K" Line shall pay UP, in accordance with the terms and conditions of the Billing and Payment Procedures Section of this Agreement, the per Container Contract Rates and other applicable charges set forth in this Agreement and Exhibits 1 and 2 attached to this Agreement as escalated pursuant to Section 6.

* * *

Section 14. SERVICE.

* * *

G. EQUIPMENT.

1. Containers and Chassis

(i) "K" Line shall furnish all Containers and Chassis for movements under this Agreement. UP shall have not responsibility to supply Containers; however, "K" Line reserves the right to use available rail-supplied Chassis as needed at charges as agreed by the parties.

(ii) The responsibility of UP for loss, damage, destruction, maintenance and repair of Containers while Containers are under the control of UP shall be governed by the Uniform Intermodal Interchange Agreement (UIIA).

2. Railcars

(i) UP will provide all necessary railcar equipment upon receiving 5 days

advance forecast from "K" Line.

(ii) "K" Line will furnish to UP information as to the number of 45 foot, 40 foot, and 20 foot Containers 5 days prior to tender of Containers to UP.

(iii) Loaded traffic left behind forty-eight (48) hours from tender to any Union Pacific Facility (including On-Dock) will be trucked to the final Facility location even if this is not a UP site, upon "K" Line's request; e.g., if the Facility-to-Facility rail movement was billed Los Angeles to Atlanta, UP will truck from Los Angeles to Atlanta. "K" Line will reimburse UP for the UP rail rate and will reimburse UP for the other railroad's fee based upon $0.70 per highway mile.

iv) The responsibility of "K" Line and UP for loss, damage, and/or destruction of the DST Railcars shall be governed by the then current Office and Field Manuals of the AAR Interchange Rules.

* * *

JA-123

UNION PACIFIC RAILROAD COMPANY (UPRR)

[Union Pacific Logo]

HISTORY FILE

Master Intermodal Transportation Agreement
(Formerly known as UP Exempt Circular 20-B)

Terms and conditions for the transportation of deregulated Intermodal Shipments

THE TERMS AND PROVISIONS OF THIS MASTER INTERMODAL TRANSPORTATION AGREEMENT ARE SUBJECT TO CHANGE WITHOUT NOTICE

ISSUED: May 1, 2003 EFFECTIVE June 1, 2003

Issued by:
Manager Pricing Simplification
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

SECTION 1. GENERAL RULES AND POLICIES

ITEM 1.1: GENERAL RULES

A. Definitions for any capitalized terms used in this Master Intermodal Transportation Agreement (MITA) are set forth in Appendix A hereto. Additional Intermodal Shipment definitions can be found at: **http://www.uprr.com/customers/intermodal/integlos.shtml**

B. The terms and conditions contained in this document apply to all Intermodal Units tendered to UPRR for transportation over its lines.

C. Where any reference is made in individual Intermodal documents, which shall include but is not limited to bills of lading, waybills, transportation agreements, letter quotes or special commodity quotes (SCQ's) to UP Exempt Circular 20-B, or Southern Pacific Lines Intermodal Circular 1000 (SP 1000), then effective with the effective date of this document, it will be understood to mean Union Pacific Railroad Company's (UPRR) Master Intermodal Transportation Agreement (MITA).

D. This MITA and any agreements, price documents or contracts that reference this MITA have been made under 49 U.S.C. § 10709 whereby UPRR or any rail carrier party to any agreement, price document or contract referencing this MITA will provide the Beneficial Owner, Shipper or Customer, with rail transportation and other services outlined herein in exchange for the applicable prices and any charges. This MITA may not be modified

by any notations made on shipping documents. Any changes to this MITA must be approved in writing prior to the issuance of any shipping document.

E. Except as otherwise specifically provided, this MITA sets forth the terms and conditions under which UPRR, or any rail carrier party to an agreement that is subject to this MITA will provide transportation services for a Shipper. The provisions of this MITA shall be incorporated in a contract of carriage (shipping document) provided by Shipper or Shipper's Agent for any transportation, and shall also be incorporated in all certificates, receipts, and other documents described within this MITA.

F. When referring to the term "Master Intermodal Transportation Agreement" or "MITA", it will also incorporate rate circulars and other exempt quotations.

G. The terms and provisions of any agreement or document making reference to this MITA is intended for the sole benefit of the parties to the respective agreement or document. Nothing is intended or may be construed to give any third party any legal or equitable right, remedy or claim under that agreement.

H. If any part, term, item, or provision of this MITA is held by the courts or by any agency having jurisdiction over this Transportation Agreement or the Shipper or carriers, to be unenforceable, illegal, against public policy, or in conflict with any federal, state, or local laws, such part, term, item, or provisions shall be considered severable from the rest of the MITA.

I. This MITA along with the terms and conditions contained in respective agreements, contracts, or documents referencing this MITA as well as the terms and conditions of the UIIA and the UIIA Addendum, ocean or rail carrier's Bills of Lading, and any applicable laws, or regulations shall constitute the entire contract for transportation between the parties.

J. Any notation made upon any shipping document, Bill of Lading or receipt which is in any way inconsistent with the terms of this contract, or which purports to enlarge, modify or change it, shall be considered as a notation made for the private benefit and information of the Shipper, receiver, or their Agents and shall not be a part of any contract arising from this offer. Restrictions on rail transportation made on a shipping document shall be void. In order to obtain special rail handling contact your UPRR Marketing & Sales Business Representative.

K. *Any* variation whatsoever from this MITA can only be accomplished through a document signed by a duly authorized manager of UPRR.

L. Rates, provisions, and UPRR transit times are subject to change without notice.

M. Each Shipment shall be tendered with a proper electronic Bill of Lading or by a proper shipping document. Regardless of billing method, all Shipments are subject to this MITA.

N. Specific provisions in this MITA take precedence over general ones.

O. Shipper agrees to notify any and all other parties involved in this transaction of all the provisions, restrictions, and limitations

contained in this MITA. In the event Shipper fails to perform the obligations of this section, Shipper agrees to defend and indemnify UPRR for any and all costs associated with Claims or lawsuits alleging a lack of knowledge of the terms and conditions of the provisions of this MITA. Shipper specifically agrees to notify the origin loader, Waybill Shippers, Brokers. Freight Forwarders, Beneficial Owners, Receivers, insurers, and draymen of the terms and conditions of this agreement. The presentation of a return receipt signed by an authorized Agent of the addresses with a cover letter indicating the contents of the correspondence shall create a presumption that Shipper has notified the addressee of the terms and conditions of this document for the purposes of this section. Alternatively, a notification to the other parties via e-mail or fax that contains the URL of the UPRR web site and the following language:

"*As a prospective party to this MITA you should be aware that UPRR imposes certain requirements, limitations, and restrictions on cargo transported on its railroad. These provisions cover Blocking and Bracing instructions, Restricted and Prohibited Article cargo, limitations of liability and other important provisions. The complete MITA for UPRR is available at* http://www.up.com/. *Any Customer or party shipping under terms of this MITA should be familiar with the terms and provisions of this MITA prior to becoming involved in any transportation movement.*"

P. Paper copies of this document are available. For a copy, please send Forty-Five Dollars ($45. 00) for shipping and handling to the following address:

*Manager Pricing Simplification
Union Pacific Railroad Company
Union Pacific Center
1400 Douglas Street, Mail Stop 1350
Omaha NE 68179

Q. Intermodal transportation is exempt from regulation by the Surface Transportation Board. UPRR, at its sole discretion, may decline to handle particular traffic movements or movements for particular customers. UPRR does not guarantee the availability of track capacity, terminal capacity, locomotives, train crews or railroad equipment, including rail cars, chassis, containers or trailers. Furthermore, UPRR does not guarantee any particular transit time or availability of shipments for pickup. The foregoing rule is not applicable to the extent that it is superseded or modified by a price document or contract between UPRR and a particular shipper.

ITEM 1.2: LEGAL RIGHTS AND OBLIGATIONS.
(This terms and conditions of this Item 1.2 have been intentionally capitalized in order to comply with statutory requirements of various states.)

A. THE SHIPPER OR SHIPPER'S AGENT SHALL BE SOLELY RESPONSIBLE FOR

---

* Denotes change or publication clarification.

AND WILL DEFEND, INDEMNIFY AND HOLD HARMLESS UPRR AGAINST ALL CLAIMS FOR PROPERTY LOSS OR DAMAGE, PERSONAL INJURY, DEATH OR ANY OTHER LIABILITY, INCLUDING FINES, RAIL CARRIER COSTS, LATE PAYMENTS, ATTORNEY FEES, INTEREST AND EXPENSES RESULTING FROM ANY SPILL, RESPONSE, MITIGATION, CLEANUP OR DISPOSAL DUE TO THE SHIPPER'S NON-COMPLIANCE WITH ANY LOCAL, STATE OR FEDERAL LAW OR REGULATION: THE TERMS AND CONDITIONS CONTAINED IN THIS MITA AS WELL AS THE APPLICABLE RATE DOCUMENTS.

B. THE SHIPPER OR SHIPPER'S AGENT SHALL ASSUME ALL LEGAL DEFENSE AGAINST ANY THIRD-PARTY CLAIMS FOR DAMAGE DUE TO SHIPPER AND ITS AGENT'S FAILURE TO COMPLY WITH THE OBLIGATIONS CONTAINED IN THIS MITA AND THE APPLICABLE RATE DOCUMENTS.

C. THE SHIPPER OR SHIPPER'S AGENT SHALL BE SOLELY RESPONSIBLE FOR AND WILL DEFEND, INDEMNIFY AND HOLD RAIL CARRIER HARMLESS AGAINST ANY PROPERTY LOSS, DAMAGE, PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM IMPROPERLY TENDERING RESTRICTED ARTICLES AS SET FORTH IN THIS MITA AND WILL DEFEND,

INDEMNIFY AND HOLD RAIL CARRIER HARMLESS FROM ANY RESPONSIBILITY, INCLUDING ANY RELATED COSTS AND EXPENSES.

D. UNDER NO CIRCUMSTANCES WILL RESTRICTED ARTICLES BE PERMITTED UNDER FAK RATES. ANY RESTRICTED ARTICLES THAT ARE DETERMINED TO BE MOVING UNDER FAK RATES WILL BE CONSIDERED CONTRABAND AND UPRR WILL HAVE NO RESPONSIBILITY FOR LOSS OR DAMAGES TO THOSE ITEMS.

E. THE SHIPPER OR ITS AGENT SHALL BE SOLELY RESPONSIBLE FOR AND WILL DEFEND, INDEMNIFY AND HOLD RAIL CARRIER HARMLESS AGAINST ANY LOSS, DAMAGE, OR PERSONAL INJURY DUE TO ANY DEFECTS IN PRIVATELY OWNED OR LEASED EQUIPMENT.

F. THE SHIPPER OR SHIPPER'S AGENT SHALL BE SOLELY RESPONSIBLE FOR AND WILL DEFEND, INDEMNIFY AND HOLD RAIL CARRIER HARMLESS DUE TO THE PRESENCE OF ANY RESIDUE, OR CONTAMINANTS IN THE "INTERMODAL UNIT".

G. THE SHIPPER OR SHIPPER'S AGENT SHALL BE SOLELY RESPONSIBLE FOR AND WILL DEFEND, INDEMNIFY AND HOLD RAIL CARRIER HARMLESS DUE TO IMPROPERLY IDENTIFIED COMMODITIES.

H. THE SHIPPER OR SHIPPER'S AGENT AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS UPRR, OR ANY RAIL CARRIER PARTY TO AN AGREEMENT THAT IS SUBJECT TO THIS MITA FROM ALL CLAIMS AND/OR LAWSUITS FOR LOSS OR DAMAGE, BROUGHT BY ANY PERSON(S) OR ENTITY(IES) ALLEGING PROPERTY LOSS AND/OR PERSONAL INJURY AND/OR DEATH ARISING OUT OF OR RESULTING FROM ANY ACT AND/OR OMISSION OF THE SHIPPER, AND SPECIFICALLY FROM ALL CLAIMS AND LAWSUITS RESULTING FROM THE SHIPPER'S FAILURE TO COMPLY WITH THE TERMS AND PROVISIONS CONTAINED IN THIS MITA, RELATING TO THE RAILROAD'S TRANSPORTATION, STORAGE AND/OR CUSTODY OF THE SUBJECT SHIPMENT, INCLUDING ANY JUDGMENTS, SETTLEMENTS, COSTS, ATTORNEY FEES AND OTHER EXPENSES.

ITEM 1.3: CHOICE OF LAW

The terms and provisions of this MITA will be interpreted based upon Federal Common Law. In no event will this MITA be interpreted under the laws of a foreign country.

* * *

ITEM 3.1: CARGO LOSS AND DAMAGE PROVISIONS

* * *

C. Liability Provisions:

* * *

3. UPRR'S MAXIMUM LIABILITY FOR THE CONTENTS OF ANY INTERMODAL UNIT WILL BE LIMITED TO THE ORIGIN VALUE OF THE COMMODITY, PLUS TRANSPORTATION COSTS OR TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000.00), WHICHEVER IS THE LESSER OF THE TWO AMOUNTS. FURTHERMORE, UPRR SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO OR IN CONNECTION WITH THE TRANSPORTATION OF COMMODITY IN AN AMOUNT EXCEEDING $10,000.00 PER PACKAGE OR IN THE CASE OF GOODS NOT SHIPPED IN PACKAGES, PER CUSTOMARY FREIGHT UNIT. ANY LIMITATION ON THE VALUE OF CLAIMS IMPOSED BY ANY OTHER RAIL CARRIERS, MOTOR CARRIER, MARINE CARRIER OR FREIGHT FORWARDER IS INCORPORATED AND MADE A PART OF THIS MITA; THE VALUE OF THE LOWEST MAXIMUM CLAIM AMOUNT SHALL APPLY.

* * *

ITEM 3.2: CARMACK LIABILITY

49 U.S.C. Section 11706 provides for full-value liability and other liability terms for UPRR and the Shipper. In order for a Shipment to be subject to the terms of 49

U.S.C. Section 11706 it must comply with all of the following provisions:

A. Shipper must notify UPRR's Damage Prevention Department in writing to the above address, or via fax at (402) 271-5191, no less than 5 working days in advance of the Shipment being In-Gated at the Intermodal Terminal that the Shipper chooses Carmack liability protection, and

B. On Shipments that Shipper requests full-vaule (Carmack) liability protection Shipper must prepay the Carmack rate. The Carmack rate will be the Freight All Kinds (FAK) rate multiplied by 250%. This Carmack rate will apply unless special written pricing authority is obtained by contacting its UPRR Marketing and Sales Representative or Damage Prevention Services (see Item 3.1 (E 4)). Failure by Shipper to provide a written agreement, prior to the Shipment being In-gated at the Intermodal Terminal or interchanged from a Connecting Carrier, evidencing that UPRR has agreed to provide Carmack Liability for any specified Shipment shall relieve UPRR from any obligation in excess of the liability limits set forth in Item 3.1 CARGO LOSS AND DAMAGE PROVISIONS.

C. Carmack Liability protection is **not** available for Shipments moving under FAK rates.

D. Carmack liability coverage is **not** available for any Shipments that originate outside the borders of the United States of America.

ITEM 3.3: FREIGHT LOSS AND DAMAGE LAWSUITS

A condition precedent to the filing of a lawsuit for freight loss or damage is the filing of a Claim under Item 3.1 of this MITA and meeting the documentation requirements contained in Item 3.1(E).

All lawsuits must be filed within eighteen (18) months from the actual or in the event of loss of Shipment, from the expected date of delivery by UPRR or any Connecting Carrier. All lawsuits for freight loss or damage must be filed in a court of competent jurisdiction in Omaha, Douglas County, Nebraska.

* * *

ITEM 7.7: DEFINITION OF DOMESTIC AND INTERNATIONAL SHIPMENTS

A. Specific to Domestic Shipments:

1. Domestic traffic shall be rated in accordance with prices so identified in individual contracts or pricing documents to which UPRR is a party that incorporate the terms and provisions of this MITA.

2. Domestic traffic is rail traffic that originates and/or terminates in the continental United States.

B. Specific to International Shipments:

1. International traffic is U.S. Intermodal rail traffic involving an immediate prior or subsequent ocean movement.

2. International traffic shall be rated in accordance with prices so identified in individual contracts or pricing documents to which UPRR is a party. Unless otherwise agreed, international rates given to ocean

carriers apply on international traffic moving on their Ocean Bill of Lading and in their specific owned or leased Containers. Any other traffic cannot be moved under these rates.

3. Shipments, which are warehoused, processed, repackaged, etc., prior or subsequent to rail movement will not be considered international traffic and shall be rated as domestic Shipments.
4. Mixed Shipments of domestic traffic and international traffic shall be rated as domestic traffic.
5. Shipments from or to Hawaii, Puerto Rico, Alaska and Guam will be considered international traffic.
6. Customer or its Agent will perform, at Shippers expense, Intermodal Terminal ramping at origin and destinations not located on UPPR.
7. Rates do not include any charge, which may be incurred prior to Interchange on import Shipments or following Interchange on export Shipments.
8. Unless otherwise provided, rates applicable to international border crossings, inclusive of Through Rates to and from Canada and Mexico, do not include: brokerage fees, in-bond preparation; export, import or manifest declaration of messenger services. Shipper is responsible for all ancillary and related charges for the movement of the Shipment.
9. In the event UPRR determines that domestic Shipments are being billed by

Receiver or Shipper under rates applicable only on international Shipments, UPRR shall ASSESS A SURCHARGE of One Thousand dollars ($1,000.00) for each Intermodal Unit so billed. This surcharge will be assessed whether the Intermodal Unit has been shipped or is awaiting shipment by UPRR. This surcharge will be billed to the party submitting rail billing to UPRR. UPRR reserves the right to cancel any rate(s) in contracts or pricing documents on one (1) days notice for improper application by a party.

* * *

Shipper
SHANGHAI ELECTRIC I/E CO., LTD.
13TH FLOOR(S), SOUTH BUILDING 333
CHENGDU ROAD (N), SHANGHAI,
200041
CHINA

Consignee
MARATHON ELECTRIC
MANUFACTURING CORP.
100 EAST RANDOLPH STREET
P.O. BOX
8003 WAUSAU, WISCONSIN 54402-8003
T: 715-6753311 U.S.A.

Notify party
C.J. INTERNATIONAL, INC
P.O. BOX 42385 INDIANAPOLIS IN
46242-0385.

B/L No.
KKLUSH7807066
IPI

[logo omitted] **"K" LINE**
KAWASAKI KISEN KAISHA, LTD.

COMBINED TRANSPORT BILL OF LADING

RECEIVED from the Shipper in apparent good order and condition, unless otherwise indicated herein, Goods or Container(s) or packages(s) said to contain the Goods herein mentioned, to be carried subject to all the terms and conditions provided for on the face and back of this Bill of Lading, from the place of receipt or port of loading to the port of discharge or place of delivery shown herein and there to be delivered. If required by Carrier, this Bill of Lading duly endorsed must

MARATHON ELECTRIC MFG CORP.
P.O. BOX 8003 WAUSAU WI 54402-8003

Pre-Carriage by

Place of receipt
SHANGHAI, , CN CY

Ocean Vessel Voy. No. 38E

Port of loading
CHANG JIANG BRIDGE SHANGHAI,,CN

be surrendered in exchange for Goods or delivery order. None of the terms of this Bill of Lading can be waived by or for Carrier except by express waiver signed by Carrier or its duly authorized agent.

IN ACCEPTING THIS BILL OF LADING, Merchant agrees to be bound by all the stipulations, exceptions, terms and conditions in Carrier's applicable Tariff, whether written, typed, stamped, or printed, as fully as if signed by Merchant, any local custom or privilege to the contrary notwithstanding, and agrees that all representations, agreements or freight engagements for and in connection with Carriage of Goods are superseded by this Bill of Lading. On presentation of one or more original(s) of this Bill of Lading (duly endorsed) to Carrier by or on behalf of Holder, the rights and liabilities arising in accordance

with the terms hereof shall (without prejudice to the terms of this Bill of Lading, or any rule of law or statute rendering them binding on Merchant) become binding in all respects between Carrier and Holder as though the contract evidenced hereby or contained herein had been made between them.

IN WITNESS WHEREOF, the undersigned, on behalf of Kawasaki Kisen Kaisha, Ltd., Vessel, her owners, operators and charterers, has signed the number of Bill(s) of Lading stated below, all of this tenor and date, one of which being accomplished, the others to stand void.

* See Clause 7(2)

Port of discharge	Place of delivery	*Final Destination (for the Merchant's reference)
LONG BEACH, CA, US	INDIANAPOLIS, IN, US DOOR	

Container No.	Seal No. Marks and Numbers	No. of Containers or pkgs.	Kind of packages; description of goods	Gross weight	Measurement
KKTU7192886	CK20898	119 WOODEN	CASES	(17,957.000	26.7900)
KKTU7626760	CK20950	99 WOODEN	CASES	(17,755.000	25.0000)
S05-2013		SHIPPER'S LOAD AND COUNT 2 CONTAINERS			
		218 WOODEN	CASES	35,712.000	51.7900
Particulars furnished by shipper		ELECTRIC MOTOR CY/DOOR FREIGHT ALL IN D.D.C. PREPAID. (OCEAN FREIGHT DDC. FAF. PORT SURCHARGE STORE DOOR DELIEVRY CHANGE ALL FREIGHT PREPAID			

SHIP IN 20X20
CONTAINERS
INVOICE.NO.S05-2013

---

2 CONTAINERS (218 WOODEN CASES)

ORIGINAL

Declared Value US$ — If shipper enters a value, the ad valorem rate will be charged (See Clause 24)

Total No. of Containers or Packages (in words)	TWO (2) CONTAINERS ONLY			35,712.000	51.7900
Freight and Charges	Revenue Tons	Rate	Per	Prepaid	Collect
"FREIGHT PREPAID"					
[illegible]					

[stamp omitted]

Ex. Rate	Prepaid at SHANGHAI	Payable at	Place and date of issue SHANGHAI APR. 3, 2005
	Total prepaid in local currency	No. of original [illegible] THREE (3)	KAWASAKI KISEN KAISHA, LTD. 200504041512 AS CARRIER [stamp omitted]

SHIPPED on board the Vessel			
Date	APR. 3, 2005	By --------	By ---------

(Standard form for Container Shipment)

KAWASAKI KISEN KAISHA, LTD. (TOKYO, JAPAN) BILL OF LADING

1. (Definitions & Tariff)

(1) In this Bill of Lading the words and expressions specified below shall have the earnings attributed to them below:

a. "Carriage" means the whole or any part of the operations and services undertaken by Carrier in respect of Goods covered under this Bill of Lading.

b. "Carrier" means KAWASAKI KISEN KAISHA, LTD., Vessel, her owners, operators and charterers whether acting as carrier or bailee.

c. "Combined Transport" means Carriage of Goods by Vessel plus one or more other modes of transport under this Bill of Lading from the place of receipt from Merchant to the place of delivery to Merchant.

d. "Connecting Carrier" means carriers (other than Carrier), contracted by or acting on behalf of Carrier, participating in Carriage of Goods by land, water or air under this Bill of Lading.

* * *

h. "Merchant" includes the shipper, consignor, consignee, owner and receiver of Goods, and Holder, and anyone acting on behalf of any such person, including but not limited to agents, servants, independent contractors and freight forwarders.

i. "Sub-Contractor" includes stevedores, longshoremen, terminal operators,

warehousemen, watchmen, any Connecting Carrier, and any person, firm, corporation, or other legal entity who or which performs services incidental to carriage of Goods under this Bill of Lading, and their servants, agents and independent contractors.

* * *

2. (Governing Law and Jurisdiction) The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein, and any action thereunder or in connection with Carriage of Goods shall be brought before the Tokyo District Court in Japan, to whose jurisdiction Merchant irrevocably consents.

* * *

4. (Responsibility For Shipments To, From Or Through US Territories) (1) With respect to Goods shipped to, from or through US Territories, Carrier's responsibilities during the entire period (and not just during Water Carriage) from the time of receipt of Goods to the time of delivery of Goods shall be governed by the United States Carriage of Goods by Sea Act (US COGSA) and US COGSA shall be deemed incorporated herein during the entire aforesaid period, provided however that if loss or damage to Goods is proven to have occurred during other than Water Carriage and outside US Territories, Carrier's responsibilities shall be determined in accordance with Clause 3(B) instead of US COGSA. ... (3) Also, if US COGSA so applies, in no event shall Carrier be or become liable for any loss or damage to or in connection with Carriage of Goods in an amount exceeding US$500 per package lawful money of USA, or in case of

Goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such Goods have been declared by the shipper before receipt of Goods by Carrier and inserted in this Bill of Lading.

5. (Sub-Contracting: Exemptions, Immunities, Limitations, etc. of Participant(s)) (1) Carrier shall be entitled to sub-contract on any terms whatsoever Carriage, including without limitation, the loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by Carrier in relation to Goods by any of the following: (I) any Connecting Carrier, (II) masters, officers, crew, employees or any other servants, of Carrier and Connecting Carrier, (III) sub-contractors, stevedores, longshoremen, terminal operators, warehousemen, watchmen, agents and independent contractors whatsoever used or employed by Carrier from time to time in connection with the performance of any of Carrier's obligations under this Bill of Lading (all of the foregoing are hereafter referred to as "Participant(s)"). (2) Merchant undertakes that no claim or allegation shall be made against any of Participants which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with Goods or Carriage of Goods, whether or not involving the negligence of any such person, and, if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof. Without prejudice to the foregoing, every such vessel and Such Participant(s) shall have the benefit of all provisions herein benefiting Carrier as if such provisions were expressly for their benefit; and, in entering into this contract, Carrier, to the extent of

those provisions, does so not only on its own behalf, but also as agent and trustee for such vessel and Participant(s). ...

6. (Methods and Routes of Carriage) It is understood and agreed that (a) Carriage of Goods may be done by more than one method or route of transport (whether or not direct, customary or advertised), including, but not limited to transport by land, water and air and by more than one Vessel or other means of transport; (b) no method or route of transport nor Vessel nor any other means of transport is agreed to be used and the same, at any time, may be changed or substituted without notice from those originally intended by Carrier; (c) Goods or any part thereof may be discharged and/or stored at any port or place, whether named or not;... .

* * *

11. (Container Packed by Merchant) If Goods received by Carrier are in Container(s) into which contents have been packed by or on behalf of Merchant, Merchant warrants that the stowage and securing of the contents of Container(s) and their closing and sealing are safe and proper and also warrants that Container(s) and contents thereof are suitable for Carriage in accordance with the terms hereof including Clause 15. In the event of Merchant's breach of said warranties, Carrier shall not be responsible for any loss of or damage to or in connection with Goods and Merchant shall be liable for loss of or damage to any property, or for personal injury, death or the consequences of any other accidents or events whatsoever and shall defend, indemnify and hold Carrier harmless against all loss, damage, liability, cost or expense, including attorneys' fees, arising out of or in any way connected with said

accidents or events. Merchant shall inspect Container(s) when the same are furnished by or on behalf of Carrier, and they shall be deemed to have been accepted by Merchant as being in sound and suitable condition for the purpose of Carriage contracted herein.

* * *

23. (Notice of Claim and Time for Suit against Carrier) (1) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to Carrier at the port of discharge or place of delivery before or at the time of delivery of Goods or, if the loss or damage be not apparent, within 3 days after delivery, Goods shall be deemed to have been delivered as described in this Bill of Lading. (2) In any event, Carrier shall be discharged from all liability in respect of non-delivery, misdelivery, delay, loss or damage unless suit is brought within one year after delivery of Goods or the date when Goods should have been delivered. (3) Notwithstanding (2) above, with respect of any non-delivery, misdelivery, delay, loss or damage which may have occurred during other than Water Carriage, Merchant must file a claim with Carrier within 9 months after delivery of Goods or the date when Goods should have been delivered, failing which Carrier will be discharged of all liability therefor.

* * *

Shipper
SHANGHAI ELECTRIC I/E CO., LTD.
13TH FLOOR(S), SOUTH BUILDING 333
CHENGDU ROAD (N), SHANGHAI,
200041
CHINA

B/L No.
KKLUSH7807068

[logo omitted] **"K" LINE**
KAWASAKI KISEN KAISHA, LTD.

COMBINED TRANSPORT BILL OF LADING

Consignee
MARATHON ELECTRIC
MANUFACTURING CORP.
100 EAST RANDOLPH STREET
P.O. BOX
8003 WAUSAU, WI 54402-8003

Notify party
MARATHON ELECTRIC
MANUFACTURING CORP.
100 EAST RANDOLPH ST.
P.O. BOX 8003
WAUSAU WI 54402-8003

RECEIVED from the Shipper in apparent good order and condition, unless otherwise indicated herein, Goods or Container(s) or packages(s) said to contain the Goods herein mentioned, to be carried subject to all the terms and conditions provided for on the face and back of this Bill of Lading, from the place of receipt or port of loading to the port of discharge or place of delivery shown herein and there to be delivered. If required by Carrier, this Bill of Lading duly endorsed must

PLS CUSTOM HOUSE BROKERS
ACE INDUSTRIAL PARK 2150AE
COLLGE AVENUE CUDAHY, WI 53110

Pre-Carriage by

Place of receipt
SHANGHAI, , CN CY

Ocean Vessel Voy. No. 38E

Port of loading
CHANG JIANG BRIDGE SHANGHAI,,CN

exchange for Goods or delivery order. None of the terms of this Bill of Lading can be waived by or for Carrier except by express waiver signed by Carrier or its duly authorized agent.

IN ACCEPTING THIS BILL OF LADING, Merchant agrees to be bound by all the stipulations, exceptions, terms and conditions in Carrier's applicable Tariff, whether written, typed, stamped, or printed, as fully as if signed by Merchant, any local custom or privilege to the contrary notwithstanding, and agrees that all representations, agreements or freight engagements for and in connection with Carriage of Goods are superseded by this Bill of Lading. On presentation of one or more original(s) of this Bill of Lading (duly endorsed) to Carrier by or on behalf of Holder, the rights and liabilities arising in accordance with the terms hereof shall (without prejudice

to the terms of this Bill of Lading, or any rule of law or statute rendering them binding on Merchant) become binding in all respects between Carrier and Holder as though the contract evidenced hereby or contained herein had been made between them.

IN WITNESS WHEREOF, the undersigned, on behalf of Kawasaki Kisen Kaisha, Ltd., Vessel, her owners, operators and charterers, has signed the number of Bill(s) of Lading stated below, all of this tenor and date, one of which being accomplished, the others to stand void.

* See Clause 7(2)

Port of discharge	Place of delivery	*Final Destination (for the Merchant's reference)
LONG BEACH, CA, US	MILWAUKEE, WI, US CY	

Container No.	Seal No. Marks and Numbers	No. of Containers or pkgs.	Kind of packages; description of goods	Gross weight	Measurement
CONTAINER AND SEAL AS PER ATTACHED SHEET S05-1013			SHIPPER'S LOAD AND COUNT 7 CONTAINERS 190 WOODEN CASES ELECTRIC MOTOR PARTS SHIP IN 7X20' CONTAINERS APR. 3. 2005 SHIPMENT (OCEAN FREIGHT, D.D.C, FAF, PORT SURCHARGE ALL PREPAID IN SHANGHAI)	121,065.000	167.2900
Particulars Furnished by Shipper					
			7 CONTAINERS (190 WOODEN CASES)		

JA-151

ORIGINAL

Declared Value US$	If shipper enters a value, the ad valorem rate will be charged (See Clause 24)		
Total No. of Containers or Packages (in words)	SEVEN (7) CONTAINERS ONLY	121,065.000	167.2900

Freight and Charges	Revenue Tons	Rate	Per	Prepaid	Collect
"FREIGHT PREPAID"					0

4-25-05
OBL only R
[stamp omitted]

Ex. Rate	Prepaid at	Payable at	Place and date of issue	
	SHANGHAI		SHANGHAI	APR. 3, 2005

	Total prepaid in local currency	No. of original [illegible] THREE (3)	KAWASAKI KISEN KAISHA, LTD. 200504041512 AS CARRIER [stamp omitted]
SHIPPED on board the Vessel Date APR. 3, 2005		By ---------	By ---------

(Standard form for Container Shipment)

KAWASAKI KISEN KAISHA, LTD. (TOKYO, JAPAN) BILL OF LADING

1. (Definitions & Tariff)

(1) In this Bill of Lading the words and expressions specified below shall have the earnings attributed to them below:

a. "Carriage" means the whole or any part of the operations and services undertaken by Carrier in respect of Goods covered under this Bill of Lading.

b. "Carrier" means KAWASAKI KISEN KAISHA, LTD., Vessel, her owners, operators and charterers whether acting as carrier or bailee.

c. "Combined Transport" means Carriage of Goods by Vessel plus one or more other modes of transport under this Bill of Lading from the place of receipt from Merchant to the place of delivery to Merchant.

d. "Connecting Carrier" means carriers (other than Carrier), contracted by or acting on behalf of Carrier, participating in Carriage of Goods by land, water or air under this Bill of Lading.

* * *

h. "Merchant" includes the shipper, consignor, consignee, owner and receiver of Goods, and Holder, and anyone acting on behalf of any such person, including but not limited to agents, servants, independent contractors and freight forwarders.

i. "Sub-Contractor" includes stevedores, longshoremen, terminal operators, warehousemen, watchmen, any Connecting Carrier, and any person, firm, corporation, or other legal entity who or which performs services incidental to carriage of Goods under this Bill of Lading, and their servants, agents and independent contractors.

* * *

2. (Governing Law and Jurisdiction) The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein, and any action thereunder or in connection with Carriage of Goods shall be brought before the Tokyo District Court in Japan, to whose jurisdiction Merchant irrevocably consents.

* * *

4. (Responsibility For Shipments To, From Or Through US Territories) (1) With respect to Goods shipped to, from or through US Territories, Carrier's responsibilities during the entire period (and not just during Water Carriage) from the time of receipt of Goods to the time of delivery of Goods shall be governed by the United States Carriage of Goods by Sea Act (US COGSA) and US COGSA shall be deemed incorporated herein during the entire aforesaid period, provided however that if loss or damage to Goods is proven to have occurred during other than Water Carriage and outside US Territories, Carrier's responsibilities shall be determined in accordance with Clause 3(B) instead of US COGSA. ... (3) Also, if US COGSA so applies, in no event shall Carrier be or

become liable for any loss or damage to or in connection with Carriage of Goods in an amount exceeding US$500 per package lawful money of USA, or in case of Goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such Goods have been declared by the shipper before receipt of Goods by Carrier and inserted in this Bill of Lading.

5. (Sub-Contracting: Exemptions, Immunities, Limitations, etc. of Participant(s)) (1) Carrier shall be entitled to sub-contract on any terms whatsoever Carriage, including without limitation, the loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by Carrier in relation to Goods by any of the following: (I) any Connecting Carrier, (II) masters, officers, crew, employees or any other servants, of Carrier and Connecting Carrier, (III) sub-contractors, stevedores, longshoremen, terminal operators, warehousemen, watchmen, agents and independent contractors whatsoever used or employed by Carrier from time to time in connection with the performance of any of Carrier's obligations under this Bill of Lading (all of the foregoing are hereafter referred to as "Participant(s)"). (2) Merchant undertakes that no claim or allegation shall be made against any of Participants which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with Goods or Carriage of Goods, whether or not involving the negligence of any such person, and, if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof. Without prejudice to the foregoing, every such vessel and Such Participant(s) shall have the benefit of

all provisions herein benefiting Carrier as if such provisions were expressly for their benefit; and, in entering into this contract, Carrier, to the extent of those provisions, does so not only on its own behalf, but also as agent and trustee for such vessel and Participant(s). ...

6. (Methods and Routes of Carriage) It is understood and agreed that (a) Carriage of Goods may be done by more than one method or route of transport (whether or not direct, customary or advertised), including, but not limited to transport by land, water and air and by more than one Vessel or other means of transport; (b) no method or route of transport nor Vessel nor any other means of transport is agreed to be used and the same, at any time, may be changed or substituted without notice from those originally intended by Carrier; (c) Goods or any part thereof may be discharged and/or stored at any port or place, whether named or not;... .

* * *

11. (Container Packed by Merchant) If Goods received by Carrier are in Container(s) into which contents have been packed by or on behalf of Merchant, Merchant warrants that the stowage and securing of the contents of Container(s) and their closing and sealing are safe and proper and also warrants that Container(s) and contents thereof are suitable for Carriage in accordance with the terms hereof including Clause 15. In the event of Merchant's breach of said warranties, Carrier shall not be responsible for any loss of or damage to or in connection with Goods and Merchant shall be liable for loss of or damage to any property, or for personal injury, death or the consequences of any

other accidents or events whatsoever and shall defend, indemnify and hold Carrier harmless against all loss, damage, liability, cost or expense, including attorneys' fees, arising out of or in any way connected with said accidents or events. Merchant shall inspect Container(s) when the same are furnished by or on behalf of Carrier, and they shall be deemed to have been accepted by Merchant as being in sound and suitable condition for the purpose of Carriage contracted herein.

* * *

23. (Notice of Claim and Time for Suit against Carrier) (1) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to Carrier at the port of discharge or place of delivery before or at the time of delivery of Goods or, if the loss or damage be not apparent, within 3 days after delivery, Goods shall be deemed to have been delivered as described in this Bill of Lading. (2) In any event, Carrier shall be discharged from all liability in respect of non-delivery, misdelivery, delay, loss or damage unless suit is brought within one year after delivery of Goods or the date when Goods should have been delivered. (3) Notwithstanding (2) above, with respect of any non-delivery, misdelivery, delay, loss or damage which may have occurred during other than Water Carriage, Merchant must file a claim with Carrier within 9 months after delivery of Goods or the date when Goods should have been delivered, failing which Carrier will be discharged of all liability therefor.

* * *

ATTACHED SHEET

SHEET NO. 1
KKLUSH7807068

CHANG JIANG BRIDGE **38E** **LONG BEACH, CA, US** **MILWAUKEE, WI, US**

CONTAINER AND SEAL			KGS	CBM
KKTU7180442	28973	36 WOODEN CASES	(17,701.000	25.8000)
KKTU1304431	28977	30 WOODEN CASES	(16,890.000	25.3800)
KKTU7587633	28971	30 WOODEN CASES	(16,890.000	25.3800)
KKTU7561069	28976	24 WOODEN CASES	(17,750.000	22.5000)
KKTU7562358	28975	24 WOODEN CASES	(16,270.000	22.0500)
KKTU7505229	28972	21 WOODEN CASES	(17,770.000	23.5900)
KKTU7425740	28974	25 WOODEN CASES	(17,794.000	22.5900)

Shipper
BEIHAI QIANGHENG I/E TRADING CO., LTD.
QIANGSHENG BUILDING, BEIHAI ROAD,
BEIHAI, GUANGXI 536000, CHINA

14272

B/L No.
KKLU826146965
B/L
IPI

[logo omitted] **"K" LINE**
KAWASAKI KISEN KAISHA, LTD.

COMBINED TRANSPORT BILL OF LADING

Consignee VICTORY FIREWORKS, L.L.C.
579 VINCENT LANE
ELLSWORTH WIS. 54011 USA
TEL: 715-273-3590
FAX: 715-273-3593

Notify party NOTIFY PARTY
AS PER ATTACHED
SHEET

RECEIVED from the Shipper in apparent good order and condition, unless otherwise indicated herein, Goods or Container(s) or packages(s) said to contain the Goods herein mentioned to be carried subject to all the terms and conditions provided for on the face and back of this Bill of Lading from the place of receipt or port of loading to the port of discharge or place of delivery shown herein and there to be delivered. If required by

Pre-Carriage by	Place of receipt
LIGHTER	BEIHAI CY
Ocean Vessel Voy. No. 14E	Port of loading
CHISWICK BRIDGE	HONG KONG

Carrier, this Bill of Lading duly endorsed must be surrendered in exchange for Goods or delivery order. None of the terms of this Bill of Lading can be waived by or for Carrier except by express waiver signed by Carrier or its duly authorized agent.

IN ACCEPTING THIS BILL OF LADING, Merchant agrees to be bound by all the stipulations, exceptions, terms and conditions in Carrier's applicable Tariff, whether written, typed, stamped, or printed, as fully as if signed by Merchant, any local custom or privilege to the contrary notwithstanding, and agrees that all representations, agreements or freight engagements for and in connection with Carriage of Goods are superseded by this Bill of Lading. On Presentation of one or more original(s) of this Bill of Lading (duly endorsed) to Carrier by or on behalf of Holder,

the rights and liabilities arising in accordance with the terms hereof shall (without prejudice to the terms of this Bill of Lading, or any rule of law or statute rendering them binding on Merchant) become binding in all respects between Carrier and Holder as though the contract evidenced hereby or contained herein had been made between them.

IN WITNESS WHEREOF, the undersigned, on behalf of Kawasaki Kisen Kaisha, Ltd., Vessel, her owners, operators and charterers, has signed the number of Bill(s) of Lading stated below, all of this tenor and date, one of which being accomplished, the others to stand void.

* See Clause 7(2)

Port of discharge	Place of delivery	*Final Destination (for the Merchant's reference)
LONG BEACH, CA, US	MINNEAPOLIS MN CY	

Container No.	Seal No. Marks and Numbers	No. of Containers or pkgs.	Kind of packages; description of goods	Gross weight	Measurement
KKFU1595257	40DRY BR14931		LADEN ON BOARD: 2005/ 03/30	KGS	M3
N/M					[stamp omitted]

"SHIPPER'S LOAD AND COUNT"

1 CONTAINER(S)
PACKAGES DETAILS
AS PER ATTACHED SHEET

---

1 CONTAINER(S) (998 CTNS)

"THIS IS TO CERTIFY THAT THE ABOVE NAMED ARTICLES ARE IN PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED

Particulars Furnished by Shipper

AND LABELED, AND ARE IN PROPER CONDITION FOR TRANSPORTATION ACCORDING TO THE APPLICABLE REGULATIONS OF THE US DEPARTMENT OF TRANSPORTATION."

"SHIPPER ADVISES SHIPMENT CONTAINS NO SWPM"

Declared Value US$ — If shipper enters a value, the ad valorem rate will be charged (See Clause 24)

Total No. of Containers or Packages (in words)	ONE (1) CONTAINERS ONLY	14,896.500	59.026

Freight and Charges	Revenue Tons	Rate	Per	Prepaid	Collect
					0

"FREIGHT PREPAID AS ARRANGED"

Ex. Rate	Prepaid at	Payable at	Place and date of issue
2005/03/17	HONG KONG		HONG KONG 2005/03/30
	Total prepaid in local currency	No. of original [illegible] THREE (3)	KAWASAKI KISEN KAISHA, LTD. AS CARRIER [stamp omitted]

SHIPPED on board the Vessel

Date

By

By s/illegible
---
by "K" LINE (HONG KONG) LTD.

(Standard form for Container Shipment)

JA-166

KAWASAKI KISEN KAISHA, LTD. (TOKYO, JAPAN) BILL OF LADING

1. (Definitions & Tariff)

(1) In this Bill of Lading the words and expressions specified below shall have the earnings attributed to them below:

a. "Carriage" means the whole or any part of the operations and services undertaken by Carrier in respect of Goods covered under this Bill of Lading.

b. "Carrier" means KAWASAKI KISEN KAISHA, LTD., Vessel, her owners, operators and charterers whether acting as carrier or bailee.

c. "Combined Transport" means Carriage of Goods by Vessel plus one or more other modes of transport under this Bill of Lading from the place of receipt from Merchant to the place of delivery to Merchant.

d. "Connecting Carrier" means carriers (other than Carrier), contracted by or acting on behalf of Carrier, participating in Carriage of Goods by land, water or air under this Bill of Lading.

* * *

h. "Merchant" includes the shipper, consignor, consignee, owner and receiver of Goods, and Holder, and anyone acting on behalf of any such person, including but not limited to agents, servants, independent contractors and freight forwarders.

i. "Sub-Contractor" includes stevedores, longshoremen, terminal operators,

warehousemen, watchmen, any Connecting Carrier, and any person, firm, corporation, or other legal entity who or which performs services incidental to carriage of Goods under this Bill of Lading, and their servants, agents and independent contractors.

* * *

2. (Governing Law and Jurisdiction) The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein, and any action thereunder or in connection with Carriage of Goods shall be brought before the Tokyo District Court in Japan, to whose jurisdiction Merchant irrevocably consents.

* * *

4. (Responsibility For Shipments To, From Or Through US Territories) (1) With respect to Goods shipped to, from or through US Territories, Carrier's responsibilities during the entire period (and not just during Water Carriage) from the time of receipt of Goods to the time of delivery of Goods shall be governed by the United States Carriage of Goods by Sea Act (US COGSA) and US COGSA shall be deemed incorporated herein during the entire aforesaid period, provided however that if loss or damage to Goods is proven to have occurred during other than Water Carriage and outside US Territories, Carrier's responsibilities shall be determined in accordance with Clause 3(B) instead of US COGSA. ... (3) Also, if US COGSA so applies, in no event shall Carrier be or become liable for any loss or damage to or in connection with Carriage of Goods in an amount exceeding US$500 per package lawful money of USA, or in case of

Goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such Goods have been declared by the shipper before receipt of Goods by Carrier and inserted in this Bill of Lading.

5. (Sub-Contracting: Exemptions, Immunities, Limitations, etc. of Participant(s)) (1) Carrier shall be entitled to sub-contract on any terms whatsoever Carriage, including without limitation, the loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by Carrier in relation to Goods by any of the following: (I) any Connecting Carrier, (II) masters, officers, crew, employees or any other servants, of Carrier and Connecting Carrier, (III) sub-contractors, stevedores, longshoremen, terminal operators, warehousemen, watchmen, agents and independent contractors whatsoever used or employed by Carrier from time to time in connection with the performance of any of Carrier's obligations under this Bill of Lading (all of the foregoing are hereafter referred to as "Participant(s)"). (2) Merchant undertakes that no claim or allegation shall be made against any of Participants which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with Goods or Carriage of Goods, whether or not involving the negligence of any such person, and, if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof. Without prejudice to the foregoing, every such vessel and Such Participant(s) shall have the benefit of all provisions herein benefiting Carrier as if such provisions were expressly for their benefit; and, in entering into this contract, Carrier, to the extent of

those provisions, does so not only on its own behalf, but also as agent and trustee for such vessel and Participant(s). ...

6. (Methods and Routes of Carriage) It is understood and agreed that (a) Carriage of Goods may be done by more than one method or route of transport (whether or not direct, customary or advertised), including, but not limited to transport by land, water and air and by more than one Vessel or other means of transport; (b) no method or route of transport nor Vessel nor any other means of transport is agreed to be used and the same, at any time, may be changed or substituted without notice from those originally intended by Carrier; (c) Goods or any part thereof may be discharged and/or stored at any port or place, whether named or not;... .

* * *

11. (Container Packed by Merchant) If Goods received by Carrier are in Container(s) into which contents have been packed by or on behalf of Merchant, Merchant warrants that the stowage and securing of the contents of Container(s) and their closing and sealing are safe and proper and also warrants that Container(s) and contents thereof are suitable for Carriage in accordance with the terms hereof including Clause 15. In the event of Merchant's breach of said warranties, Carrier shall not be responsible for any loss of or damage to or in connection with Goods and Merchant shall be liable for loss of or damage to any property, or for personal injury, death or the consequences of any other accidents or events whatsoever and shall defend, indemnify and hold Carrier harmless against all loss, damage, liability, cost or expense, including attorneys' fees, arising out of or in any way connected with said

accidents or events. Merchant shall inspect Container(s) when the same are furnished by or on behalf of Carrier, and they shall be deemed to have been accepted by Merchant as being in sound and suitable condition for the purpose of Carriage contracted herein.

* * *

23. (Notice of Claim and Time for Suit against Carrier) (1) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to Carrier at the port of discharge or place of delivery before or at the time of delivery of Goods or, if the loss or damage be not apparent, within 3 days after delivery, Goods shall be deemed to have been delivered as described in this Bill of Lading. (2) In any event, Carrier shall be discharged from all liability in respect of non-delivery, misdelivery, delay, loss or damage unless suit is brought within one year after delivery of Goods or the date when Goods should have been delivered. (3) Notwithstanding (2) above, with respect of any non-delivery, misdelivery, delay, loss or damage which may have occurred during other than Water Carriage, Merchant must file a claim with Carrier within 9 months after delivery of Goods or the date when Goods should have been delivered, failing which Carrier will be discharged of all liability therefor.

* * *

VESSEL/VOY : CHISWICK	KKLU826146965
BRIDGE / 14E	

DESCRIPTION DETAILS

(998 CTNS) 14,896.500 59.026

FIREWORKS, 1.46, UNNO 0336, PAGE 1260

NET WEIGHT:13608KGS

EMERGENCY PHONE:

800-255-3924 (24 HOURS)

OR WAYNE SCHULTE: 715-273-3590

- - - -

Shipper
JIANGSU GUOTAI INTL GROUP
ELECTRONICS
IMP/EXP CO., LTD.8TH FLR,GUOTAI
BLDG
RENMIN RD ZHANGJIAGANG CITY
CHINA 215600
TEL:051258683000

B/L No.
KKLUZG6400686
GDZY055302010

[logo omitted] **"K" LINE**
KAWASAKI KISEN KAISHA, LTD.

COMBINED TRANSPORT BILL OF LADING

Consignee
UNITED STEEL&FASTENERS INC
1500 INDUSTRIAL DRIVE. ITASCA.IL
60143
TEL:16302500900

Notify party
WORLD COMMERCE.830 DILLON RD.
WOOSSAIL.
IL 60191 AND UNITED STEEL &

RECEIVED from the Shipper in apparent good order and condition, unless otherwise indicated herein, Goods or Container(s) or packages(s) said to contain the Goods herein mentioned to be carried subject to all the terms and conditions provided for on the face and back of this Bill of Lading from the place of receipt or port of loading to the port of discharge or place of delivery shown herein

JA-172

FASTENERS INC.

Pre-Carriage by	Place of receipt
	ZHANGJIAGANG

Ocean Vessel	Voy. No.	Port of loading
SU XU JI 1	V.018E	ZHANGJIAGANG

and there to be delivered. If required by Carrier, this Bill of Lading duly endorsed must be surrendered in exchange for Goods or delivery order. None of the terms of this Bill of Lading can be waived by or for Carrier except by express waiver signed by Carrier or its duly authorized agent.

IN ACCEPTING THIS BILL OF LADING, Merchant agrees to be bound by all the stipulations, exceptions, terms and conditions in Carrier's applicable Tariff, whether written, typed, stamped, or printed, as fully as if signed by Merchant, any local custom or privilege to the contrary notwithstanding, and agrees that all representations, agreements or freight engagements for and in connection with Carriage of Goods are superseded by this Bill of Lading. On presentation of one or more original(s) of this Bill of Lading (duly

endorsed) to Carrier by or on behalf of Holder, the rights and liabilities arising in accordance with the terms hereof shall (without prejudice to the terms of this Bill of Lading, or any rule of law or statute rendering them binding on Merchant) become binding in all respects between Carrier and Holder as though the contract evidenced hereby or contained herein had been made between them.

IN WITNESS WHEREOF, the undersigned, on behalf of Kawasaki Kisen Kaisha, Ltd., Vessel, her owners, operators and charterers, has signed the number of Bill(s) of Lading stated below, all of this tenor and date, one of which being accomplished, the others to stand void.

* See Clause 7(2)

Port of discharge LONG BEACH		Place of delivery CHICAGO			*Final Destination (for the Merchant's reference)
Container No.	Seal No. Marks and Numbers	No. of Containers or pkgs.	Kind of packages; description of goods	Gross weight	Measurement
			SHIPPER'S LOAD&COUNT&SEAL		
USF INC PO#46945/ 47173/45887- 01/434/433 CHICAGO C/NO:1-26 MADE IN CHINA KKTU7102774/ZC1554/ 20		26 PACKAGES (48190PCS)	1X20GP CY-CY RETAINER NAIL CASTING THIS SHIPMENT CONTAINS NO SOLID WOOD PACKING MATERIALS ORIGINAL	KGS 17000	M3 15
Particulars Furnished by					

Shipper
Declared Value US$ If shipper enters a value, the ad valorem rate will be charged (See Clause 24)

Total No. of Containers or Packages (in words) SAY TWENTY SIX PACKAGES ONLY

Freight and Charges	Revenue Tons	Rate	Per	Prepaid	Collect
				---	---

"FREIGHT PREPAID"
BAF PERPAID DDC COLLECT

JIANGSU UNIWILL LOGISTICS CO., LTD. [Chinese translation omitted]
s/ illegible,

JIANGSU UNIWILL LOGISTICS CO., LTD.
[Chinese translation omitted]

Ex. Rate	Prepaid at	Payable at	Place and date of issue
			ZHANGJIANG APR-01-05

	Total prepaid in local currency s/illegible	No. of original [illegible] THREE	KAWASAKI KISEN KAISHA, LTD. Manager as agents signed for the carrier AS CARRIER [stamp omitted]

SHIPPED on board the Vessel			
Date APR-01-05	Manager as agent signed for the carrier	SU XU JI 1 V018E By ----------	By ----------

(Standard form for Container Shipment)

JA-178

KAWASAKI KISEN KAISHA, LTD. (TOKYO, JAPAN) BILL OF LADING

1. (Definitions & Tariff)

(1) In this Bill of Lading the words and expressions specified below shall have the earnings attributed to them below:

a. "Carriage" means the whole or any part of the operations and services undertaken by Carrier in respect of Goods covered under this Bill of Lading.

b. "Carrier" means KAWASAKI KISEN KAISHA, LTD., Vessel, her owners, operators and charterers whether acting as carrier or bailee.

c. "Combined Transport" means Carriage of Goods by Vessel plus one or more other modes of transport under this Bill of Lading from the place of receipt from Merchant to the place of delivery to Merchant.

d. "Connecting Carrier" means carriers (other than Carrier), contracted by or acting on behalf of Carrier, participating in Carriage of Goods by land, water or air under this Bill of Lading.

* * *

h. "Merchant" includes the shipper, consignor, consignee, owner and receiver of Goods, and Holder, and anyone acting on behalf of any such person, including but not limited to agents, servants, independent contractors and freight forwarders.

i. "Sub-Contractor" includes stevedores, longshoremen, terminal operators,

warehousemen, watchmen, any Connecting Carrier, and any person, firm, corporation, or other legal entity who or which performs services incidental to carriage of Goods under this Bill of Lading, and their servants, agents and independent contractors.

* * *

2. (Governing Law and Jurisdiction) The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law except as may be otherwise provided for herein, and any action thereunder or in connection with Carriage of Goods shall be brought before the Tokyo District Court in Japan, to whose jurisdiction Merchant irrevocably consents.

* * *

4. (Responsibility For Shipments To, From Or Through US Territories) (1) With respect to Goods shipped to, from or through US Territories, Carrier's responsibilities during the entire period (and not just during Water Carriage) from the time of receipt of Goods to the time of delivery of Goods shall be governed by the United States Carriage of Goods by Sea Act (US COGSA) and US COGSA shall be deemed incorporated herein during the entire aforesaid period, provided however that if loss or damage to Goods is proven to have occurred during other than Water Carriage and outside US Territories, Carrier's responsibilities shall be determined in accordance with Clause 3(B) instead of US COGSA. ... (3) Also, if US COGSA so applies, in no event shall Carrier be or become liable for any loss or damage to or in connection with Carriage of Goods in an amount exceeding

US$500 per package lawful money of USA, or in case of Goods not shipped in packages, per customary freight unit, or the equivalent of that sum in other currency, unless the nature and value of such Goods have been declared by the shipper before receipt of Goods by Carrier and inserted in this Bill of Lading.

5. (Sub-Contracting: Exemptions, Immunities, Limitations, etc. of Participant(s)) (1) Carrier shall be entitled to sub-contract on any terms whatsoever Carriage, including without limitation, the loading, unloading, storing, warehousing, handling and any and all duties whatsoever undertaken by Carrier in relation to Goods by any of the following: (I) any Connecting Carrier, (II) masters, officers, crew, employees or any other servants, of Carrier and Connecting Carrier, (III) sub-contractors, stevedores, longshoremen, terminal operators, warehousemen, watchmen, agents and independent contractors whatsoever used or employed by Carrier from time to time in connection with the performance of any of Carrier's obligations under this Bill of Lading (all of the foregoing are hereafter referred to as "Participant(s)"). (2) Merchant undertakes that no claim or allegation shall be made against any of Participants which imposes or attempts to impose upon any of them or any vessel owned or chartered by any of them any liability whatsoever in connection with Goods or Carriage of Goods, whether or not involving the negligence of any such person, and, if any such claim or allegation should nevertheless be made, to indemnify Carrier against all consequences thereof. Without prejudice to the foregoing, every such vessel and Such Participant(s) shall have the benefit of all provisions herein benefiting Carrier as if such provisions were expressly for their benefit; and, in

entering into this contract, Carrier, to the extent of those provisions, does so not only on its own behalf, but also as agent and trustee for such vessel and Participant(s). ...

6. (Methods and Routes of Carriage) It is understood and agreed that (a) Carriage of Goods may be done by more than one method or route of transport (whether or not direct, customary or advertised), including, but not limited to transport by land, water and air and by more than one Vessel or other means of transport; (b) no method or route of transport nor Vessel nor any other means of transport is agreed to be used and the same, at any time, may be changed or substituted without notice from those originally intended by Carrier; (c) Goods or any part thereof may be discharged and/or stored at any port or place, whether named or not;... .

* * *

11. (Container Packed by Merchant) If Goods received by Carrier are in Container(s) into which contents have been packed by or on behalf of Merchant, Merchant warrants that the stowage and securing of the contents of Container(s) and their closing and sealing are safe and proper and also warrants that Container(s) and contents thereof are suitable for Carriage in accordance with the terms hereof including Clause 15. In the event of Merchant's breach of said warranties, Carrier shall not be responsible for any loss of or damage to or in connection with Goods and Merchant shall be liable for loss of or damage to any property, or for personal injury, death or the consequences of any other accidents or events whatsoever and shall defend, indemnify and hold Carrier harmless against all loss,

damage, liability, cost or expense, including attorneys' fees, arising out of or in any way connected with said accidents or events. Merchant shall inspect Container(s) when the same are furnished by or on behalf of Carrier, and they shall be deemed to have been accepted by Merchant as being in sound and suitable condition for the purpose of Carriage contracted herein.

* * *

23. (Notice of Claim and Time for Suit against Carrier) (1) Unless notice of loss or damage and the general nature of such loss or damage be given in writing to Carrier at the port of discharge or place of delivery before or at the time of delivery of Goods or, if the loss or damage be not apparent, within 3 days after delivery, Goods shall be deemed to have been delivered as described in this Bill of Lading. (2) In any event, Carrier shall be discharged from all liability in respect of non-delivery, misdelivery, delay, loss or damage unless suit is brought within one year after delivery of Goods or the date when Goods should have been delivered. (3) Notwithstanding (2) above, with respect of any non-delivery, misdelivery, delay, loss or damage which may have occurred during other than Water Carriage, Merchant must file a claim with Carrier within 9 months after delivery of Goods or the date when Goods should have been delivered, failing which Carrier will be discharged of all liability therefor.

* * *

"K" LINE SERVICE CONTRACT - SCNO. 13933

ESSENTIAL TERMS ("ET") PUBLICATION:
KKLU-150
ESSENTIAL TERMS NO.:
TARIFFS OF GENERAL APPLICABILITY:

This Service Contract ("Contract") is made and concluded this day of Mar, 31, 2004, by and between Kawasaki Kaisha, Ltd. ("K" Line), an ocean common carrier ("Carrier"), and Shanghai Electric Import and Export Corp., an (hereafter "Shipper"), whereby the parties mutually agree as set forth in Appendix A – attached hereto. IN WITNESS WHEREOF,
the parties have executed this Contract through their responsible representatives duly authorized as of the dates hereinafter written, SUBJECT TO ARBITRATION CLAUSE IN CLAUSE XII.

s/illegible	s/Wu Hong Bing
(Signature) Date	(Signature) Date: 2004/3/31
	Wu Hong Bing
	Vice General Manager
"K" Line America Inc.	Address: 13th Floor(S),
as agents for Kawasaki	South Building,
Kisen Kaisha	33 Chengdu Road (N),
	Shanghai
301 Concourse Blvd.	Tel: 0086-21-52980505
Suite 300	Fax: 0086-21-52980461
Glen Allen, VA 23060	
Tel. (804) 935 3100	
Fax (804) 935 3119	

Affiliates of Shipper
Covered by this Contract:
Refer to Appendix A

Shipper Certification
Pursuant to FMC regulation 46 C.F.R. 530.6 Shipper, by execution of this Contract, certifies its status and that of all its affiliates authorized to utilize this Contract as:
(1) X cargo owner or consignee; (2) _____ other (specify: _____); or (3) _____ signatory acting as Ocean Transport Intermediary(ies). If status is #3 above, Shipper further certifies that any such OTIs have tariff(s) and bond(s) on file with the FMC in full compliance with FMC regulations and that copies of tariff pages reflecting same have been provided to Carrier.

"K" LINE SERVICE CONTRACT - SCNO. 13933

ESSENTIAL TERMS ("ET") PUBLICATION:
KKLU-150
ESSENTIAL TERMS NO.: 13933
TARIFFS OF GENERAL APPLICABILITY :
KKLU – 129, 143

This Service Contract ("Contract") is made and concluded this day of Mar 31 2004, by and between Kawasaki Kaisha, Ltd. ("K" Line), an ocean common carrier ("Carrier"), and Shanghai Electric Import and Export Corp. an (hereafter "Shipper"), whereby the parties mutually agree as set forth in Appendix A – attached hereto. IN WITNESS WHEREOF, the parties have executed this Contract through their responsible representatives duly authorized as of the dates hereinafter written, SUBJECT TO ARBITRATION CLAUSE IN CLAUSE XII.

(Signature) Date	(Signature) Date: 2004/3/31
TY Cheng	Wu Hong Bing
VP Import	Vice General Manager
"K" Line America Inc. as agents for Kawasaki Kisen Kaisha	Address: 13th Floor(S), South Building, 33 Chengdu Road (N), Shanghai
301 Concourse Blvd.	Tel: 0086-21-52980505
Suite 300	Fax: 0086-21-52980461
Glen Allen, VA 23060	

Tel. (804) 935 3100
Fax (804) 935 3119

Affiliates of Shipper
Covered by this Contract:
Refer to Appendix A

Shipper Certification
Pursuant to FMC regulation 46 C.F.R. 530.6 Shipper, by execution of this Contract, certifies its status and that of all its affiliates authorized to utilize this Contract as:
(1) X cargo owner or consignee; (2) _____ other (specify: _____); or (3) _____ signatory acting as Ocean Transport Intermediary(ies). If status is #3 above, Shipper further certifies that any such OTIs have tariff(s) and bond(s) on file with the FMC in full compliance with FMC regulations and that copies of tariff pages reflecting same have been provided to Carrier.

Final Boilerplate

SERVICE CONTRACT NO. 13933

The parties, Kawasaki Kisen Kaisha, Ltd. ("K" Line), Hibiya Central Building, 2 - 9, Nishi-Shinbashi 1-Chome, Minato-Ku, Tokyo 105, Japan, a Japanese corporation ("Carrier"), and Shanghai Electric Import and Export Corp., a Chinese corporation ("Shipper") hereby agree to the following terms and conditions governing carriage of Shipper's cargoes on Carrier' s Vessels.

I. PARTIES. The Shipper is deemed to include the corporation signing this Contract and all its affiliates listed (by name and business address) in Appendix A hereto, together with verification of shipper status. Carrier is Kawasaki Kisen Kaisha, Ltd., and its Vessels shall be deemed to include any vessel on which it has chartered space or slots.

II. GOVERNING TARIFFS: All cargoes moving hereunder, unless otherwise provided herein shall be subject to the common group rates, charges, or rules as applicable at time of shipment contained in the governing "K" Line Tariff(s) listed on the signature page of the contract.

III. TERM. The term of this Contract shall be from its Effective Date under Federal Maritime Regulations or on the first day of the Term as shown in Appendix A hereto (whichever is later) and shall end as per Appendix A.

IV. PARTIES OBLIGATIONS.

A. Shipper agrees to ship a minimum quantity of containers containing commodities as shown in Appendix A hereto (the "MQC") during the Term of this Contract from the Origins and to the Destinations port ranges, ports or points (for through intermodal services, Origin and Destination geographic areas) listed in Appendix A at the rates specified in Appendix A and, except as otherwise specified herein, subject to the rules and charges provided in Carrier's governing Tariff covering the Origins and Destinations, as in effect at time of receipt by Carrier. A 40-ft or 45' ft. container shall count as two TEUs.

B. Carrier agrees to carry, from the Origins to the Destinations, the MQC of cargoes which Shipper is the beneficial owner, consignee, the person paying for the ocean transportation, or is an NVOCC or member of a Shipper's Association where applicable, at the rated in Appendix A, subject to applicable rules and charges as noted above. Any additional quantity of such cargoes carried by Carrier during the Term of this contract shall be carried under the terms of this Contract.

V. SERVICE COMMITMENT. Carrier agrees to carry the MQC of Shipper's containers on its scheduled Vessels during the Term, upon seven-(7) day's notice prior to scheduled sailing, from the Origins to the Destinations.

VI. VERIFICATION. Each original Bill of Lading governing individual shipments under this Contract and all copies thereof shall bear a notation showing the service contract number of this Contract. The designation by Shipper of cargo as Contract cargo by affixing the Contract number on the bill of lading shall be made at the time of the issuance of the bill of lading and shall be final, absent inadvertent error. Shipper agrees to submit promptly to the Carrier, on a monthly basis, statements of the quantity of cargo shipped under this Contract, the statements to be in writing supported by a copy of the Bills of Lading.

VII. FORCE MAJEURE. In the event force majeure circumstances, including work stoppages, strikes, accidents, casualties, lockouts, fire, road, marine or rail disasters, acts of God, governmental restraints, war or hostilities, embargoes or other similar conditions, but not commercial contingencies (e.g., hanging markets, poor management decisions, business declines, bankruptcy of a customer or of a supplier, etc.), the Shipper or Carrier shall notify the other party in writing within seven (7) working days of the existence of such circumstances and of the effect on its ability to perform its obligations hereunder and shall immediately notify the other party of the cessation of the force majeure conditions. Upon receipt of such notice of force majeure conditions, the parties shall be excused from their obligations under this Contract to the extent of and for the duration of the disability.

VIII. BILL OF LADING PROVISIONS. All terms and conditions (front and back) of Carrier's applicable Bill of Lading form, as effective upon cargo receipt and as contained in Carrier's Tariff at the time of receipt, shall apply to all shipments hereunder, notwithstanding any term of this Contract.

IX DAMAGES. Unless other wise specified in the contract, for every TEU below the MQC or sub-MQC which Shipper tenders timely to Carrier during the Term of this Contract, Shipper shall pay Carrier one hundred and fifty U.S. dollars ($150) as liquidated damages, which liquidated damages are necessary due to the difficulty of assessing the serious damage suffered by Carrier from the loss of such business. Payment to be made within thirty (30) days from the dated Carrier sends Shipper written notice of the amount due. If Carrier fails to carry containers tendered timely by Shipper, Shipper shall be entitled to a reduction in the MQC by the amount of the shortfall, or extension of this Contract by prorating the MQC over the term of this Contract and extending by an amount of time equal to the prorated portion of the Term during which such containers would have been carried. Neither party is liable for any damages other than as stated herein.

X. FILING. This Contract and amendments, and its Essential Terms, shall be filed and published, respectively, required by the FMC and shall be subject to all FMC Regulations.

XI. CONTRACT RECORDS. The Carrier's Bills of

Lading, the Shipper's statements of cargo shipped under this Contract, written communications issued by Carrier regarding such statements, and force majeure correspondence and notices, shall constitute the records supporting performance under this Contract. Any requests from the Federal Maritime Commission for shipment records under this Contract should be submitted to the Carrier at the address shown on the signature page hereof.

XII. DISPUTES/APPLICABLE LAW. The substantive law of the State of New York shall govern this Contract and the parties submit to the jurisdiction of the U.S. District Court for the Southern District of New York for all purposes. Any dispute shall be settled exclusively by arbitration at New York by a single arbitrator chosen by the parties or selected by the U.S. District Court, under the Rules of the Society of Maritime Arbitrators. The arbitrator's award may be confirmed in any court of competent jurisdiction and shall be enforceable under the United Nations Convention on the Recognition and Enforcement of Arbitral Awards of June 10, 1958.

XIII. ASSIGNMENT. Neither party may assign this Contract.

XIV. ENTIRE CONTRACT. This Contract constitutes the sole agreement between the parties concerning the subject matter, and supersedes any other agreement. Appendices —through—are incorporated herein by

reference.

XV. TERMINATION. After the MQC and sub-MQC (if any) are met, either party may terminate on ten (10) business days written notice. In the event of termination for other reasons, all shipments will be rerated as required by FMC Regulations.

XVI. CERTIFICATION. Shipper warrants that the certification of shipper status by it and all affiliates or members entitled to utilize this Contract is true and correct and any change will be communicated immediately to Carrier.

GOVERNING TARIFF: KKLU-129, 143
KLINE Standard BP
Special Terms: NO
Amendment No. 1 – Effective March 2, 2005

"Kawasaki Kisen Kaisha Ltd./SHANGAHI ELECTRIC I/E CORP."
2004 Service Contract No 13933

The following provisions of this Appendix are incorporated in the above referenced service contract. References herein to "Articles" shall refer to provisions of the above referenced service contract; references herein to "paragraphs" shall refer to provisions of this Appendix.

1. ORIGIN

   China, People's Republic of

2. DESTINATION

   USA

3. COMMODITIES

960075 GROUP A [Viz, Electric Motors & Parts]

To the extent a description of the above commodity is set forth in the governing Tariff at the time of any shipment under this Contract, those provisions are incorporated herein by reference and shall govern the description of said commodity under this Contract, subject to any exclusions or additions set forth in this paragraph.

4. MINIMUM QUANTITY OR PORTION

   200 TEUs

5. SERVICE COMMITMENTS

The service commitment applicable hereto is set forth in Article V of the Service Contract Boiler Plate

6. RATES OR RATE SCHEDULE(S)

A	B	C	D	E	F	G	H	I	J	K	M
		Origin	O-Via	Destination	D-Via	Svc	Comn	20	40	40H	Notes
		---		---		---	---	---	---	---	---
		Shanghai, PRC		Los Angeles, CA		YY	A	2000	2835	3190	1,2,3
		Shanghai, PRC		Los Angeles, CA	US West Coast TP	YD	A	2265	3185	3585	1,2,3
		Shanghai, PRC		New York, NY	US West Coast TP	YY	A	3425	4735	5325	1,2,3
		Shanghai, PRC		Ashland, OH	US West Coast TP	YD	A	3295	4560	5130	1,2,3
		Shanghai, PRC		Beloit, WI	US West Coast TP	YD	A	2825	3935	4425	1,2,3
	AM1	Shanghai,		Blytheville,	US West Coast	YD	A	3045	4225	4755	1,2,3,4

	PRC	AR	TP						
	Shanghai, PRC	Chicago, IL	US West Coast TP	YY	A	2675	3735	4200	1,2,3
	Shanghai, PRC	Chicago, IL	US West Coast TP	YD	A	2750	3835	4315	1,2,3
	Shanghai, PRC	Cleveland, OH	US West Coast TP	YY	A	3110	4310	4850	1,2,3
	Shanghai, PRC	Houston, TX	US West Coast TP	YY	A	2750	3835	4315	1,2,3
	Shanghai, PRC	Houston, TX	US West Coast TP	YD	A	2825	3935	4425	1,2,3
AM1	Shanghai, PRC	Indianapolis, IN	US West Coast TP	YD	A	2825	3930	4420	1,2,3,4

AM1	Shanghai, PRC	Lebanon, MO	US West Coast TP	YD	A	2670	3725	4190	1,2,3,4
	Shanghai, PRC	Mentor, OH	US West Coast TP	YD	A	3220	4460	5020	1,2,3
	Shanghai, PRC	Lima, OH	US West Coast TP	YD	A	2695	3760	4230	1,2,3
AM1	Shanghai, PRC	Milwaukee, WI	US West Coast TP	YY	A	2615	3655	4110	1,2,3,4
	Shanghai, PRC	Nashville, TN	US West Coast TP	YD	A	3425	4735	5325	1,2,3
	Shanghai, PRC	Schaumburg, IL	US West Coast TP	YD	A	2845	3960	4455	1,2,3

"YY" = CY/CY delivery.

"YD" = CY/Door delivery. Unless otherwise specified only live-unloading is applicable.

"PC" = DRY container

Note 1:

The above contract rates are inclusive of the following charges,

- Currency Adjustment Factor
- Destination Delivery Charge
- Chassis Charge
- Shanghai Port Surcharge
- Peak Season Surcharge

but subject to all the other charges published in the governing tariff such as followings;

- Origin Terminal Handling Charge
- Alameda Corridor Charge
- Cargo Declaration Data Charge

Note 2:

The above rates are inclusive of Bunker Charge (BAF)/Fuel Adjustment Factor (FAF) at $175/D20, 230/D40 and 260/40H.

In the event BAF/FAF increase to higher than the above mentioned amount, Carrier and Shipper will review the rate level and make adjustment by mutual agreement to reflect the higher BAF/FAF.

Note 3:

Above rates are applicable via direct call services at Shanghai only.

AM1 Note 4:

AM1 The above rates are subject to Slow Season Discount of the following amount:

Slow Season Discount (US$)			
20'	40'	40H	45'
$100	$150	$170	N/A

AM1 The Slow Season Discount shall be effective from the date of filing of AM-01

AM1 through April 30th, 2005 (and applicable for PSW Direct Calling origins ONLY).

7 LIQUIDATED DAMAGES FOR NON-PERFORMANCE, IF ANY

The Liquidated damages hereunder are set forth in Article IX of Service Contract Boiler Plate.

8 DURATION OF THE CONTRACT

Duration: 12 Months

Effective Date: May 1, 2004

Expiration Date: April 30, 2005

9 SIGNATURE DATE/ CONTRACT PARTIES/ SIGNATORIES AND ANY AFFILIATES

390 Shipper: SHANGAHI ELECTRIC I/E CORP.

Affiliate(s): Nil

10 SHIPPER STATUS CERTIFICATION

BCO

11 RECORDS

The maintenance of contract records hereunder are set forth in Article XI of Services Contract Boiler Plate.

JA-200

AMENDMENT NO. 01

AGREEMENT TO AMEND "K" LINE SERVICE CONTRACT NO. 13933

WHEREAS, Shanghai Electric I/E Corp. and its related entities listed in the Appendix hereto (collectively "Shipper") entered into service contract SCNo. 13933 (the "Contract"), with Kawasaki Kisen Kaisha, Ltd ("K" Line); and

WHEREAS, the parties wish to amend the Contract as shown on the pages of the Contract attached hereto;

NOW, THERFORE, TO ALL WHOM IT MAY CONCERN, be it known that for good and valuable consideration, the receipt of which is hereby acknowledged by both Carrier and shipper have mutually agreed to amend the Contract as set forth in the attached Amendment No. 01 to the Contract. Carrier and Shipper each agree that the attached pages(s) of the Contract shall be modified as shown in the attached amendment and each shall confirm their agreement by having ar authorized representative sign where indicated below and by initiating each of the modified pages of the amendment.

Carrier and Shpper further agree that Carrier shall file the above described amendment with the Federal Maritime Commission and said amendment shall become effective on the date of said filing.

(Carrier)	(Shipper)
_____	s/Wu Hong Bing
(Signature)	(Signature)
(Print Name)	Wu Hong Bing
(Title)	Vice General Manager
"K" Line America, Inc. as agent for Kawasaki Kisen Kaisha, Ltd.	Shanghai Electric I/E Corp.
Date:_____	Date: 2/3/05